



**City of Hamilton
PLANNING COMMITTEE
AGENDA**

Meeting #: 22-003
Date: February 15, 2022
Time: 9:30 a.m.
Location: Due to the COVID-19 and the Closure of City Hall (CC)

All electronic meetings can be viewed at:

City's Website:
<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's YouTube Channel:
<https://www.youtube.com/user/InsideCityofHamilton> or Cable 14

Lisa Kelsey, Legislative Coordinator (905) 546-2424 ext. 4605

Pages

1. CEREMONIAL ACTIVITIES

2. APPROVAL OF AGENDA

(Added Items, if applicable, will be noted with *)

3. DECLARATIONS OF INTEREST

4. APPROVAL OF MINUTES OF PREVIOUS MEETING

4.1. February 1, 2022

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5. COMMUNICATIONS

5.1. Ontario Land Tribunal Decisions

Recommendation: Be received OR deferred to a future meeting for further information.

a. 109 East 11th Street - OLT-21-001019 - Minor Variance

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b.	69 Sanders Blvd and 1630 Main St W - OLT-21-001801 / PL200456 - Failure to adopt OPA and ZBL By-laws 22-014 and 22-015	34
c.	19 Dawson Avenue - PL210071 - OPA and ZBL Refusal By-laws 22-012 and 22-013	66
d.	1190 Main St W et al - PL180302 - Zoning By-law Amendment By-law 22-010	89
e.	73-89 Stone Church Rd W and 1029 West 5th St - PL200302 - Failure to adopt OPA and ZBL	92
f.	354 King St W - OLT-21-001127 - Failure to adopt OPA and ZBL	170
g.	195 Wellington Street South - PL171389 - ZBL By-law 22-011	176
h.	11 Robert Street - PL210275 - Minor Variance	199

6. DELEGATION REQUESTS

- 6.1. Sayed Azher Bukhari, Canata Paralegal Services, respecting Section 42 of Schedule 25 of the Taxi Cab By-law 07-170 (For today's meeting)
- 6.2. James Kemp and Tim Nolan, ACPD, respecting Outdoor Patio Program (Item 10.1) (For today's meeting)

7. CONSENT ITEMS

- | | | |
|------|--|-----|
| 7.1. | Appointment By-law under the Building Code Act, 1992 (PED22025)
(City Wide) | 222 |
| 7.2. | Active Official Plan Amendment, Zoning By-law Amendment and Plan of
Subdivision Applications (PED22023) (City Wide) | 227 |

8. STAFF PRESENTATIONS

9. PUBLIC HEARINGS / DELEGATIONS

- | | | |
|------|---|-----|
| 9.1. | Applications for a Rural Hamilton Official Plan Amendment and Zoning
By-law Amendment for Lands Located at 173 Highway 52, 1372
Concession 2 West and 1348 Concession 2 West, Flamborough
(PED22020) (Ward 14) | 248 |
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9.2.	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2)	300
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	(i) Daniel Coleman	
	(ii) S. Christian Hollingshead and Petition	
9.3.	Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law No. 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12)	375
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	(i) Paul Stever	
	(ii) Debra Mills	
	(iii) Heather Bull	
	(iv) Christina Grant	
	(v) Thomas Beckett	
	(vi) Sandy Tod	
	(vii) Julie Palmese	
	(viii) James Enos	
	(ix) Maxine Morris-Zecchini	
	(x) Anita Dinning	
	(xi) Ian and Karen Hanna	
	(xii) Patricia Cole-Stever	
	(xiii) Pat and David Venus	
	(xiv) Genevieve Anson	
10.	DISCUSSION ITEMS	
10.1.	Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide)	582
11.	MOTIONS	
11.1.	Nuisance Party By-law	596
12.	NOTICES OF MOTION	
13.	GENERAL INFORMATION / OTHER BUSINESS	
14.	PRIVATE AND CONFIDENTIAL	

14.1. Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-20-026), Zoning By-law Amendment Application (ZAC-20-041) and Draft Plan of Subdivision Application (25T-202008) for Lands Located at 870 Scenic Drive and 828 Sanatorium Road (Hamilton) (OLT-21-001169) (LS22005/PED22032) (Ward 14)

Pursuant to Section 9.1, Sub-sections (e), (f) and (k) of the City's Procedural By-law 21-021; and, Section 239(2), Sub-sections (e), (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; 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.

15. ADJOURNMENT



PLANNING COMMITTEE MINUTES

22-002

February 1, 2022

9:30 a.m.

**Council Chambers, Hamilton City Hall
71 Main Street West**

Present: Councillors B. Johnson (Chair)
L.Ferguson (1st Vice Chair), M. Wilson (2nd Vice Chair),
M. Pearson, J.Farr, J.P. Danko and J. Partridge

Also in Attendance: Councillor N. Nann

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Hamilton Municipal Heritage Committee Report 22-001 (Item 7.1)

(Pearson/Danko)

(a) Appointment of Chair and Vice Chair (Item 1)

- (i) That A. Denham-Robinson be appointed Chair of the Hamilton Municipal Heritage Committee for 2022; and,
- (ii) That C. Dimitry be appointed Vice-Chair of the Hamilton Municipal Heritage Committee for 2022.

(b) Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) (Added Item 8.1)

That Heritage Permit Application HP2021-055 attached hereto as Appendix "A" to report 22-001, respecting a Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton be APPROVED.

Result: Main Motion, As Amended, CARRIED by a vote of 7 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

2. Appeal of Zoning By-law Amendment Application ZAC-20-043 and Draft Plan of Subdivision Application 25T-202009 for Lands Located at 262 McNeilly Road and 1036 - 1090 Barton Street, Stoney Creek (PED22022) (Ward 10) (Item 7.2)

(Pearson/Farr)

That Report PED22022 respecting Appeal of Zoning By-law Amendment Application ZAC-20-043 and Draft Plan of Subdivision Application 25T-202009 for Lands Located at 262 McNeilly Road and 1036 - 1090 Barton Street, Stoney Creek (Ward 10), be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

3. Status Update for Site Plan Control Application DA-19-020 for Lands Located at 310 Frances Avenue, Stoney Creek (PED19115(a)) (Ward 10) (Added Item 7.3)

(Pearson/Ferguson)

That Report PED19115(a) respecting Status Update for Site Plan Control Application DA-19-020 for Lands Located at 310 Frances Avenue, Stoney Creek (Ward 10), be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

4. City Initiative CI-20-A to Amend the Urban Hamilton Official Plan and Zoning By-law for Lands Located at 1400 Baseline Road, Stoney Creek (PED20002(a)) (Ward 10) (Outstanding Business List Item) (Item 9.1)

(Pearson/Farr)

- (a) That City Initiative CI-20-A, to amend the Urban Hamilton Official Plan to change the designation from “Low Density Residential 2b” to “Medium Density Residential 3” designation, and identified as a Site Specific Policy Area in the Urban Lakeshore Area Secondary Plan for the lands located at 1400 Baseline Road, Stoney Creek, as shown on Appendix “A” attached to Report PED20002(a), be APPROVED on the following basis:
- (i) That the draft Urban Hamilton Official Plan Amendment, attached as Appendix “B” to Report PED20002(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
 - (ii) That the draft Urban Hamilton Official Plan Amendment is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- (b) That City Initiative CI-20-A, to rezone the subject lands from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM3-69(H)” Zone, Modified, Holding, under Zoning By-law No. 3692-92 (Stoney Creek) on the lands known as 1400 Baseline Road, in order to permit Maisonettes, Townhouses, Apartment Dwellings, Dwelling Groups, a Home Occupation and Uses, buildings or structures accessory to a permitted use, for lands located at 1400 Baseline Road, Stoney Creek, as shown on Appendix “A” attached to Report PED20002(a), be APPROVED on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED20002(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the amending By-law apply the Holding Provision of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning for the following:

The Holding Provision for the Multiple Residential “RM3-69(H)” Zone, Modified, Holding, shall be removed when the following conditions have been met:

 - (1) That a Traffic Impact Study has been submitted and implemented by the Applicant, to the satisfaction of the Manager of Transportation Planning, City of Hamilton;

- (2) That the Applicant/Owner shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment, Conservation and Parks (MECP) recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Owner/Applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner;
- (3) That the proponent shall carry out an Archaeological Assessment of the subject property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI);
- (4) That the Owner/Applicant enters into and registers an applicable development agreement(s), including an External Works Agreement, and posting of appropriate securities to ensure the implementation of any infrastructure upgrade needs identified in the Functional Servicing Report, the Traffic Impact Study, or both, recommendation(s) to the satisfaction of the Senior Director of Growth Management, City of Hamilton;

City Council may remove the 'H' symbol and, thereby give effect to the "RM3-69(H)" Zone, Modified, Holding, by enactment of an amending By-law once the above conditions have been fulfilled;

- (iii) That the proposed amendment is consistent with the Provincial Policy Statement (2020), conforms to the Growth Plan for the Greater Golden Horseshoe (2019, as amended);

- (iv) That this By-law will comply with the Urban Hamilton Official Plan upon finalization of Urban Hamilton Official Plan Amendment No. XX;
- (c) That Item 19J be removed from the Planning Committee Outstanding Business List.
- (d) ***That the public submissions were received and considered by Committee in approving the application.***

Result: Main Motion, As Amended, CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

5. City Ambassadors on the Waterfront Trail (Item 11.1)

(Pearson/Farr)

WHEREAS, the use of the Waterfront Trail has become popular with out of town cyclists many of whom are travelling at unsafe speeds, creating daily safety concerns for other trail users; and,

WHEREAS, the use of e-bikes, e-scooters and other electric powered devices are increasingly used on the waterfront trail, contrary to the City's by-law, and,

WHEREAS, Licensing and By-law Services has previously hired summer students to act as Waterfront Trail Ambassadors as part of a pilot program in 2021 to educate the public and enforce City By-laws; and,

WHEREAS, the Waterfront Trail Ambassador program was considered a success and well received by trail users and Beach Neighbourhood residents,

THEREFORE BE IT RESOLVED:

That Licensing and By-law Services be directed to hire two summer students to act as City Ambassadors on the Waterfront Trail for the months of May through August 2022 at a cost of approximately \$28,740.49 to be funded by the Hamilton Beach Reserve Account 108037.

Result: Motion CARRIED by a vote of 5 to 1, as follows:

YES - Ward 1 Councillor Maureen Wilson
 NO - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

6. Amendment to the Removal of Snow and Ice By-law respecting the definition of "clearing" (Added Item 12.2)

(Pearson/Johnson)

By-law 03-296, Being a By-law to Provide for the Removal of Snow and Ice from Roofs and Sidewalks

WHEREAS, Section 130 of the Municipal Act, Chapter 25, S.O. 2001, provides that a municipality may regulate matters related to the health, safety, and well-being of the inhabitants of the municipality;

WHEREAS, the Council for the City of Hamilton enacted the Removal of Snow and Ice from Roofs and Sidewalks By-law No 03-296 to provide for the removal of snow and ice from roofs and sidewalks, abutting the highways in front of, or alongside, or at the rear of any occupied or unoccupied lot or vacant lot;

WHEREAS, the Removal of Snow and Ice from Roofs and Sidewalks By-law No 03-296 currently does not provide for a specific definition of "clearing" snow and ice making it inconsistent and unclear for property owners on their responsibilities and what constitutes compliance; and,

WHEREAS, contractors working on behalf of the City of Hamilton have a specific;

THEREFORE, BE IT RESOLVED:

That Licensing and By-law Services staff be directed report to the Planning Committee with recommended changes to amend By-law No. 03-296, being a by-law for the Removal of Snow and Ice from Roofs and Sidewalks By-law to include a definition for "clearing" snow and ice consistent with the contractor contract in the City of Hamilton, and to clarify any responsibility or requirements for private property owners to clear snow and ice away from catch basins and fire hydrants in front of their property.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge

YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

The Committee Clerk advised of the following changes to the agenda:

1. COMMUNICATIONS (Item 5)

5.2 Communications respecting 310 Frances Avenue (Item 7.3)

- (i) Sherry Hayes
- (ii) Michelle Blanchette
- (iii) Colleen Saunders

Recommendation: Be received and referred to the consideration of Item 7.3.

2. DELEGATION REQUESTS (Item 6)

- 6.1 Ryan Sneek respecting the Heritage Permit Application for 124 St. Clair Avenue (Item 7.1)
- 6.2 Viv Saunders, Lakewood Beach Community Council respecting Items 7.2 and 7.3

3. PUBLIC HEARINGS / DELEGATIONS (Item 9)

9.1 City Initiative CI-20-A to Amend the Urban Hamilton Official Plan and Zoning By-law for Lands Located at 1400 Baseline Road, Stoney Creek (PED20002(a)) (Ward 10) (Outstanding Business List Item)

(a) Added Written Submissions:

- (vi) Miguel A Byrne
- (vii) Sherry Corning
- (viii) Nancy Hurst
- (ix) Linda MacMillan
- (x) Shujaat Siddiqui

(b) Added Delegation Requests:

- (i) Viv Saunders, Lakewood Beach Community Council

(ii) Tammy Felts, WCECC #479

4. NOTICES OF MOTION (Item 12)

12.1 Nuisance Party By-law

12.2 Amendment to the Removal of Snow and Ice By-Law respecting the definition of "clearing"

(Danko/Partridge)

That the agenda for the February 1, 2022 Planning Committee meeting be approved, as amended.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 NOT PRESENT - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(b) DECLARATIONS OF INTEREST (Item 3)

None declared.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) January 11, 2022 (Item 4.1)

(Wilson/Ferguson)

That the Minutes of the January 11, 2022 meeting be approved, as presented.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 NOT PRESENT - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

Councillor Johnson relinquished the Chair to Councillor Ferguson.

(d) COMMUNICATIONS (Item 5)

(i) Spencer McKay, UrbanCore Developments, respecting Exemption Request for 3033 and 3063 Binbrook Road (Item 5.1)

(Johnson/Partridge)

That the communication from Spencer McKay, UrbanCore Developments, respecting Exemption Request for 3033 and 3063 Binbrook Road, be received.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

Councillor Johnson assumed the Chair.

(ii) Communications respecting 310 Frances Avenue (Item 7.3) (Added Item 5.2)

(Pearson/Farr)

That the following communications, be received and referred to the consideration of Item 7.3:

- (i) Sherry Hayes
- (ii) Michelle Blanchette
- (iii) Colleen Saunders

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(e) DELEGATION REQUESTS (Item 6)

(i) Various Delegation Requests (Added Item 6.1 and 6.2)

(Danko/Partridge)

That the following Delegations be approved for today's meeting:

- 6.1 Ryan Sneek respecting the Heritage Permit Application for 124 St. Clair Avenue (Item 7.1), to be heard before Item 7.1; and,
- 6.2 Viv Saunders, Lakewood Beach Community Council respecting 262 McNeilly Road and 1036-1090 Barton Street, and 310 Frances Avenue, to be heard before Items 7.2 and 7.3.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(f) PUBLIC HEARINGS / DELEGATIONS (Item 9)

(i) Ryan Sneek respecting the Heritage Permit Application for 124 St. Clair Avenue (Item 7.1) (Added Item 9.2)

Ryan Sneek addressed the Committee respecting the Heritage Permit Application for 124 St. Clair Avenue (Item 7.1).

(Farr/Wilson)

That the Delegation from Ryan Sneek respecting the Heritage Permit Application for 124 St. Clair Avenue (Item 7.1), be received.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Items (g)(i) and 1.

(g) CONSENT ITEMS (Item 7)

(i) Hamilton Municipal Heritage Committee Report 22-001 (Item 7.1)

(Pearson/Danko)

That Item #2 of Hamilton Municipal Heritage Committee Report 22-001 be voted on separately:

- 2. Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) (Added Item 8.1)**

That Heritage Permit Application HP2021-055 attached hereto as Appendix "A" to report 22-001, respecting a Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton be DENIED.

Result: Motion DEFEATED by a vote of 0 to 7, as follows:

NO - Ward 1 Councillor Maureen Wilson
NO - Ward 8 Councillor John-Paul Danko
NO - Ward 2 Councillor Jason Farr
NO - Ward 15 Councillor Judi Partridge
NO - Ward 12 Councillor Lloyd Ferguson
NO - Ward 11 Councillor Brenda Johnson
NO - Ward 10 Councillor Maria Pearson

(Pearson/Danko)

That Heritage Permit Application HP2021-055 attached hereto as Appendix "A" to report 22-001, respecting a Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton be APPROVED.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 8 Councillor John-Paul Danko
YES - Ward 2 Councillor Jason Farr
YES - Ward 15 Councillor Judi Partridge
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 1.

(h) PUBLIC HEARINGS / DELEGATIONS (Item 9) - Continued

- (i) **Viv Saunders, Lakewood Beach Community Council respecting 262 McNeilly Road and 1036-1090 Barton Street (Item 7.2) (Added Item 9.3)**

Viv Saunders, Lakewood Beach Community Council addressed Committee respecting 262 McNeilly Road and 1036-1090 Barton Street (Item 7.2).

(Pearson/Farr)

That the Delegation from Viv Saunders, Lakewood Beach Community Council respecting 262 McNeilly Road and 1036-1090 Barton Street, be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 2.

- (ii) **Viv Saunders, Lakewood Beach Community Council respecting 310 Frances Avenue (Item 7.3) (Added Item 9.4)**

Viv Saunders, Lakewood Beach Community Council addressed Committee respecting 310 Frances Avenue (Item 7.3).

(Pearson/Wilson)

That the Delegation from Viv Saunders, Lakewood Beach Community Council respecting 310 Frances Avenue (Item 7.3), be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 3.

(i) PUBLIC HEARINGS / DELEGATIONS (Item 9) (Continued)

In accordance with the *Planning Act*, Chair Johnson advised those viewing the virtual meeting that the public had been advised of how to pre-register to be a virtual delegate at the Public Meetings on today's agenda.

In accordance with the provisions of the *Planning Act*, Chair Johnson advised that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council makes a decision regarding the proposed By-law Amendments and Development applications before the Committee today, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Ontario Land Tribunal, and the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

(i) City Initiative CI-20-A to Amend the Urban Hamilton Official Plan and Zoning By-law for Lands Located at 1400 Baseline Road, Stoney Creek (PED20002(a)) (Ward 10) (Outstanding Business List Item) (Item 9.1)

Alissa Mahood, Senior Project Manager of Community Planning and GIS, addressed the Committee with the aid of a PowerPoint presentation.

(Pearson/Danko)

That the staff presentation be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(Farr/Ferguson)

That the following written submissions (Item 9.1(a)), be received:

- (i) Nada and John Barlow, in Opposition to the application.
- (ii) Viv Saunders, in Opposition to the application.
- (iii) Heather Saltys, in Opposition to the application.
- (iv) Tammy Felts, President WCECC #479, in Opposition to the application.
- (v) Patricia Townson, in Opposition to the application.
- (vi) Miguel A Byrne, in Opposition to the application.

- (vii) Sherry Corning, in Opposition to the application.
- (viii) Nancy Hurst, in Favour of the application.
- (xi) Linda MacMillan, in Opposition to the application.
- (x) Shujaat Siddiqui, in Opposition to the application.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

Registered Delegations:

The following Registered Delegations (Added Item 9.1(b)) addressed the Committee:

- (i) Viv Saunders, Lakewood Beach Community Council, in Opposition to the proposal.
- (ii) Tammy Felts, WCECC #479, in Opposition to the proposal.

(Danko/Wilson)

That the following Registered Delegation (Added Item 9.1(b)(i)), be received:

- (i) Viv Saunders, Lakewood Beach Community Council

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(Pearson/Wilson)

That the following Registered Delegation (Added Item 9.1(b)(ii)), be received:

- (ii) Tammy Felts, WCECC #479

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(Pearson/Farr)

That the public meeting be closed.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(Pearson/Danko)

That the recommendations in Report PED20002(a) be **amended** by adding the following sub-section (d):

(d) That the public submissions were received and considered by Committee in approving the application.

Result: Amendment CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 4.

(j) NOTICES OF MOTION (Item 12)

(i) Nuisance Party By-law (Added Item 12.1)

Councillor Wilson introduced the following Notice of Motion respecting the Nuisance Party By-Law:

WHEREAS, section 10 of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting: economic, social and environmental well-being of the municipality; health, safety and well-being of person; the protection of persons and property; and structures, including fences and signs;

WHEREAS, section 128 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court;

WHEREAS, thousands of students participated in a “fake homecoming” party near McMaster University on Saturday October 2, 2021, which resulted in personal injuries, damage to property, an overturned vehicle and garbage and glass strewn throughout two neighbourhoods;

WHEREAS, there have been other situations and incidents in the city of Hamilton, including but not limited to, student orientation, St. Patrick’s Day celebrations, tail-gating parties and other sports-related celebrations, where parties quickly became uncontrollable, disruptive and dangerous to city of Hamilton residents;

WHEREAS, as a result of these types of nuisance parties, there is a significant strain put on city emergency services to ensure the safety and well-being of all residents;

WHEREAS, a number of other Ontario municipalities have implemented a nuisance party by-law that gives law enforcement personnel a mechanism to control and disperse people when an event has become a public nuisance;

WHEREAS, Municipal Law Enforcement and Hamilton Police Service have reported that they would benefit from additional enforcement options beyond those available under existing City By-law and Provincial Statutes;

WHEREAS, a Nuisance Party By-law would provide Municipal Law Enforcement and Hamilton Police Service additional tools to address the negative impacts on neighbourhoods of behaviors associated with large social gatherings.

THEREFORE BE IT RESOLVED:

That Licensing and By-law Services be requested to consult with Hamilton Police Service and other community stakeholders, to identify best practices from other Ontario municipalities, and report back in the second

quarter of 2022 next steps for the development and implementation of a Nuisance Party By-law in the City of Hamilton.

(ii) Amendment to the Removal of Snow and Ice By-law respecting the definition of "clearing" (Added Item 12.2)

(Pearson/Johnson)

That the Rules of Order be waived to allow for the introduction of a Motion respecting Amendment to the Removal of Snow and Ice By-law respecting the definition of "clearing".

Result: Motion CARRIED by a 2/3rds vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 6.

(k) GENERAL INFORMATION / OTHER BUSINESS (Item 13)

(i) General Manager's Update (Item 13.1)

Jason Thorne, General Manager of Planning and Economic Development, addressed the Committee respecting an overview of upcoming staff reports and internal staff re-organizations.

(Ferguson/Farr)

That the General Manager's Update, be received.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 8 Councillor John-Paul Danko
 YES - Ward 2 Councillor Jason Farr
 NOT PRESENT - Ward 15 Councillor Judi Partridge
 YES - Ward 12 Councillor Lloyd Ferguson
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson

(l) ADJOURNMENT (Item 15)

(Danko/Wilson)

That there being no further business, the Planning Committee be adjourned at 12:11 p.m.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
YES - Ward 8 Councillor John-Paul Danko
YES - Ward 2 Councillor Jason Farr
NOT PRESENT - Ward 15 Councillor Judi Partridge
YES - Ward 12 Councillor Lloyd Ferguson
YES - Ward 11 Councillor Brenda Johnson
YES - Ward 10 Councillor Maria Pearson

Councillor B. Johnson
Chair, Planning Committee

Lisa Kelsey
Legislative Coordinator

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 23, 2021

CASE NO(S): OLT-21-001019

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*,
R.S.O. 1990, c. P.13, as amended

Appellant:	Charles Matthews
Applicant:	Gillian Francis
Subject:	Minor Variance
Variance from By-law No.:	Zoning By-Law 6593
Property Address/Description:	109 East 11th Street
Municipality:	City of Hamilton
Municipal File No.:	HM/A-21:07
OLT Lead Case No.:	OLT-21-001019
OLT Case No.:	OLT-21-001019
OLT Case Name:	Matthews v. Hamilton (City)

Heard: October 29, 2021 by video hearing ("VH")

APPEARANCES:

Parties

Counsel

Charles Matthews ("Appellant")

Self-represented

Gillian Francis ("Applicant")

Balwinder S. Sran

City of Hamilton

Patrick MacDonald

DECISION DELIVERED BY K.R. ANDREWS AND ORDER OF THE TRIBUNAL

BACKGROUND

[1] Gillian Francis (“Applicant”) applied to the City of Hamilton (“City”) Committee of Adjustment (“COA”) for the authorization of a variance from section 19 of Zoning By-law No. 6593 (as amended) to permit the conversion of the existing single-family dwelling to contain two dwelling units at 109 East 11th Street, Hamilton, Ontario. The COA approved the request.

[2] The Applicant’s neighbour, Charles Matthews (“Appellant”), appealed the COA’s decision to this Tribunal.

VARIANCES REQUESTED

[3] Section 19 of the subject By-law sets out provisions regarding “residential conversion requirements” to permit a second dwelling unit. All of the requirements must be satisfied to permit the conversion of the existing single-family dwelling to contain two dwelling units, or a variance must be authorized. The Applicant sought a variance with respect to two of these requirements.

[4] The variance was characterized as follows before the COA:

1. To permit the floor area of one dwelling unit to be at least 50.0 metres squared (“m²”), whereas 65.0 m² is the minimum floor area required for each dwelling unit; and
2. To permit the obstruction by another vehicle of the manoeuvring space and accessibility to the parking space located within the detached garage, whereas the By-law requires an unobstructed manoeuvring aisle having a minimum width of 6.0 metres (“m”) and unobstructed access to the required parking space.

[5] Despite the COA's characterization of the variance being sought as two separate variances, the Tribunal finds that the requested variance is more properly characterized as two aspects of a single variance regarding section 19 of the subject By-law. This is important to distinguish because the Applicant cannot be permitted to undertake the proposed development without concurrently varying both aspects of the section 19. Therefore, more accurately, the requested variance being considered at this hearing is as follows:

1. To permit the floor area of one dwelling unit to be at least 50.0 m² and to permit the obstruction by another vehicle of the manoeuvring space and accessibility to the parking space located within the detached garage, whereas the By-law requires a minimum floor area 65.0 m² for each dwelling unit and an unobstructed manoeuvring aisle having a minimum width of 6.0 metres ("m") and unobstructed access to the required parking space.

CONSOLIDATED REPORT OF CITY PLANNING STAFF AND AGREED FACTS

[6] The City's Planning Department provided a report to the COA including the following recommendations:

1. Variance 1: although the proposed dwelling unit is 50.0 m² whereas the Zoning By-law requires 65 m², a kitchen, bathroom, bedroom and living room are provided, as well as an outdoor amenity area. The Ontario Building Code provides minimum room size requirements which is assessed through the Building Permit process. Staff supports the variance as the intent of the Official Plan and the Zoning By-law are maintained, it is desirable, and minor in nature.
2. Variance 2: a reduction in the minimum parking space size was not requested by the applicant, nor does it appear to be required based on the dimensions of the detached garage and the driveway. As a result, staff recommends that the variance be withdrawn.

[7] It is important to note that the parties were all in agreement that the planning staff's conclusions were wrong in relation to "Variance 2", insofar as this aspect of the requested variance is in fact necessary to permit the proposed development.

[8] Relatedly, the Parties agreed to the following facts:

- The distance between the side of the house and the property line, constituting the maximum possible width of a driveway, is 16 feet 7 inches (5.06 m);
- The existing driveway is narrower by 2 feet due to a flower garden planted along the length of the driveway beside the fence, making the current hard-surfaced driveway a total of 14 feet 7 inches (4.45 m) wide; and
- A concrete step coming out of the house encroaches on the driveway by another 15 inches (0.38 m), leaving 13 feet and 4 inches (4.06 m) wide of unobstructed driveway.

[9] The result of these agreed facts is that the second aspect of the variance is clearly necessary to satisfy the requirements of the subject by-law. This is true even if the Tribunal considered the matter while assuming the entire width between the house and the fence could serve as the required "manoeuvring aisle", which is supposed to have a minimum width of 6.0m.

[10] It is also noteworthy that the Tribunal asked the Applicant to confirm whether or not she had any evidence to submit to demonstrate that two cars could pass each other in the given space between the house and the fence (5.06 m), and she confirmed that she did not. In any event, the request before the Tribunal is to authorize a variance which includes an aspect to essentially excuse the Applicant altogether from the requirement to provide "unobstructed access to [parking]". It is on this basis, therefore, that the Tribunal must consider the matter.

VALIDITY OF THE COA DECISION AND JURISDICTION OF THE TRIBUNAL

[11] At the outset of the hearing, counsel for the City appeared and confirmed that his attendance was limited to addressing a potential issue respecting the validity of the COA decision.

[12] He explained that, at the time of the COA hearing, which was done remotely via a video hearing, members of the public (including the Appellant) who had registered to speak at the hearing were not heard by video due to technical issues at the City. This fact was confirmed by all of the parties. However, the parties also confirmed that all of the people who had registered to speak (including the Appellant) had previously provided written submissions outlining their issues.

[13] Council for the City further confirmed that, as a result of these technical issues, the COA rendered its decision without hearing oral submissions from the public, but did consider their written submissions received earlier.

[14] The City took no particular position regarding the potential impact that this fact might have on the hearing before the Tribunal, stating that it merely wished to draw the Tribunal's attention to the fact. The Tribunal asked the Applicant and the Appellant if they took any issue from this fact, and they confirmed that they did not and were content to proceed. Just the same, it is incumbent upon the Tribunal to satisfy itself that this fact does not create an issue of jurisdiction. The following analysis and decision was rendered at the time of the hearing.

[15] The relevant sections of the *Planning Act* regarding this issue, as raised by the City, are as follows:

45(6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision. [emphasis added]

45(8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application. [emphasis added]

[16] The questions which arise from these sections are as follows:

1. Are written submissions sufficient to be “heard” pursuant to section 45(6)?
2. Does section 45(8) have the effect of invalidating a COA decision if “every other person who desires to be heard” is not “heard” pursuant to section 45(6)?

[17] In the present case, the Tribunal finds that the receipt and consideration of written submissions in advance of the COA’s decision is sufficient to be “heard” pursuant to section 45(6). The COA decision is therefore clearly valid, and there is no issue with respect to jurisdictions of the Tribunal. The Tribunal notes, at the same time, that the present hearing is a hearing *de novo*, and the Tribunal is therefore in a position to consider the matter and provide the relief requested in any event.

ISSUES AND ANALYSIS

[18] When considering a proposed variance, the Board must consider each of the four parts of the test set out in s. 45(1) of the Act:

1. Does the requested variance maintain the general intent and purpose of the official plan?
2. Does the requested variance maintain the general intent and purpose of the zoning by-law?
3. Is the requested variance desirable for the appropriate development or use of the land? and
4. Is the requested variance minor in nature?

All four elements must be satisfied.

First aspect of the variance: minimum 50.0 m² versus 65.0 m²

[19] Midway through the hearing, the Appellant confirmed that he took no issue with the first aspect of the requested variance; being to permit the floor area of one dwelling unit to be at least 50.0 m², whereas 65.0 m² is the minimum floor area required for each dwelling unit. The Appellant confirmed that his issues were all about parking concerns.

[20] According to the Consolidated Report prepared by the City, City staff supported this aspect of the requested variance, as it found that the intent of the Official Plan and the Zoning By-law are maintained, it is desirable, and it is minor in nature. The COA came to the same conclusion, noting that it was satisfied that “there will be no adverse impact on any of the neighbouring lands”.

[21] The evidence provided by Mr. Matthews also supported this aspect of the requested variance. Mr. Matthews has lived on the subject street since 1993. He testified that many houses on the street feature extended families living in the same house. He testified that he believed five or six houses out of 27 seemingly feature a second dwelling (but he wasn't sure if these were “legal”).

[22] The Tribunal sees no reason to interfere with this part of the COA decision, having provided due regard for the COA decision and staff report in accordance with section 2.1(1)(a) of the Act.

[23] However, as noted above, the Applicant must be successful with both aspects of the requested variance in order to be successful with her efforts to be permitted to convert her single detached home into two dwelling units, pursuant to the requirements of section 19 of the subject By-law.

Second aspect of the variance: to be excused from providing unobstructed parking for both units

[24] The second aspect of the requested variance has been characterized as follows:

To permit the obstruction by another vehicle of the manoeuvring space and accessibility to the parking space located within the detached garage, whereas the By-law requires an unobstructed manoeuvring aisle having a minimum width of 6.0m and unobstructed access to the required parking space.

[25] The Tribunal notes that this is not merely a request to depart from the minimum 6.0 m width for an “unobstructed manoeuvring aisle”. Instead, the Appellant requests an exception altogether from a requirement to provide unobstructed access to the required parking.

[26] Given that the City determined that this variance was not required, the City did not provide a position on whether it supported or opposed the request. As a result, the City provided nothing for the Tribunal to consider in accordance with Act. The COA also provided nothing to consider in its brief reasons. It was not even apparent whether or not the COA considered the request necessary.

[27] It is the Applicant’s position that the requested variance satisfies all four parts of the test set out in section 45(1) of the Act. It was an uncontested fact that the driveway and garage can accommodate parking of multiple vehicles, but only in tandem without room to pass each other. The Appellant testified that future tenants could simply park in tandem in the single lane driveway, and it is not necessary to provide a maneuvering aisle to access the required parking spaces.

[28] When asked how she proposed to deal with the fact that the vehicle of one tenant would inevitably be blocked in by the vehicle of the other tenant, the Applicant proposed to deal with it contractually through the tenants’ respective leases. Her proposal essentially involves a contractual promise by each tenant to cooperate by moving their respective vehicles to let the other out.

[29] When asked how she intended to deal with any disputes that might arise from a failure to cooperate, the Applicant responded by positing that it could be dealt with by Ontario’s Landlord and Tenant Board. However, through her testimony on the subject, the Tribunal finds that she lacked an understanding of how that process might actually work.

[30] When asked how she intended to deal with either tenant parking on the street, if any dispute arose between them in relation to them sharing the driveway, the Applicant indicated that it would be an issue for by-law enforcement to deal with. It is noteworthy that the Applicant was unable to confirm any knowledge about parking restrictions on her street, but she speculated that it was probably around a three-hour maximum.

[31] The Applicant submitted that the allowance of a second dwelling in the house is a desirable use of the land to provide additional housing to satisfy a high demand and help maintain affordable housing in the area. She also posited that the request is minor and maintains the general intent of the OP and By-law.

[32] The Appellant took the opposite position, submitting that the requested variance does not satisfy the test set out in section 45(1) of the Act because it did not maintain the general intent and purpose of the zoning by-law, it was not desirable for the appropriate development or use of the land, and it was not minor in nature.

[33] The Appellant posited that disputes between the tenants are easily foreseeable, and the result is most likely going to involve at least one of the tenants parking on the street. He believed that this will lead to additional disputes between the tenants and area residents. He stated that the Applicant's plan is "not viable", and problems are "inevitable".

[34] The Appellant's position is that the by-law clearly contemplated the issue of parking and that is why the parking requirements are in place as a condition to permit the conversion of a single dwelling to two dwellings. He submitted that it is more than minor to eliminate this requirement altogether, it is not desirable for the appropriate development or use of the land because it introduces inevitable disputes, and it does not maintain the general intent of the by-law because it undermines the very purpose of the requirement to provide unobstructed on-site parking.

[35] It is noteworthy that the Appellant testified that the "average" house on the street has two to three cars, and all but two out of 27 houses feature single lane driveways

with parking in tandem. However, the Appellant also testified that most of these other properties feature a single family living in the same household, albeit sometimes being an extended family. When it was suggested to him by the Applicant that these households have seemingly managed to deal with multiple cars being parked in tandem, he took the position that it was different to expect cooperation between people within a single household, compared to cooperation between people living in two separate households.

[36] The Tribunal is persuaded to accept the Appellant's position and will not authorize the variance on account of the aspect pertaining to parking. The Tribunal agrees that it does not maintain the general intent of the by-law, it is not desirable for the appropriate development or use of the land, and it is not minor in nature – all for the same reasons posited by the Appellant.

[37] It is noteworthy that the Tribunal agrees with the Applicant's position insofar as it is desirable to provide additional housing in the area, and to contribute to affordable housing, but this does not justify granting the requested variance due to the issues pertaining to parking. The Tribunal finds that disputes between tenants are inevitable without unobstructed parking, and ongoing street-parking is the likeliest of results. This will inevitably cause further disputes with area residents. The Tribunal finds that the subject by-law was designed to avoid this very issue, so it is more than minor in nature and does not maintain the general intent of the by-law to altogether dispense with the requirement of providing unobstructed access to parking.

ORDER

[38] **THE TRIBUNAL ORDERS** that the appeal is allowed and the variance to Zoning By-law No. 6593 of the City of Hamilton is not authorized.

"K.R. Andrews"

K.R. ANDREWS
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 26, 2022

CASE NO(S): OLT-21-001801
(Formerly) PL200456

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Sanders Garden Inc.
Subject:	Request to amend the Official Plan - Failure of City of Hamilton to adopt the requested amendment
Purpose:	To permit a mixed-use 9-storey development
Property Address/Description:	69 Sanders Boulevard and 1630 Main Street West
Municipality:	City of Hamilton
Approval Authority File No.:	UHOPA-18-014
OLT Case No.:	OLT-21-001801
Legacy Case No.:	PL200456
OLT Lead Case No.:	OLT-21-001801
Legacy Lead Case No.:	PL200456
OLT Case Name:	Sanders Garden Inc. vs. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Sanders Garden Inc.
Subject:	Application to amend Zoning By-law No. ZAC-18-035 - Neglect of the City of Hamilton to make a decision
Existing Zoning:	"H" (Community Shopping and Commercial; Etc.) and Community Institutional (I2), Exception: 17, 20
Proposed Zoning	Site specific "E-3" (High Density Multiple Dwellings)
Purpose:	To permit a mixed-use 9-storey development
Property Address/Description:	69 Sanders Boulevard and 1630 Main Street West

Municipality:	City of Hamilton
Municipality File No.:	ZAC-18-035
OLT Case No.:	OLT-21-001802
Legacy Case No.:	PL200457
OLT Lead Case No.:	OLT-21-001801
Legacy Lead Case No.:	PL200456

Heard: January 11 to 14, 2022 by video hearing

APPEARANCES:

Parties

Sanders Garden Inc.

City of Hamilton

Counsel

Russell D. Cheeseman
Stephanie Fleming

Aisling Flarity

DECISION DELIVERED BY T. PREVEDEL AND ORDER OF THE TRIBUNAL

[1] The matter before the Tribunal is an appeal under s. 22(7) and 34(11) of the *Planning Act* with respect to the failure of the City of Hamilton (“City”) to make a decision within the legislated timelines with respect to applications for an Official Plan Amendment (“OPA”) and a Zoning By-Law Amendment (“ZBLA”). The applications were filed by the Applicant/Appellant, Sanders Garden Inc. (“Sanders”), in respect of the property located at 1630 Main Street West and 69 Sanders Boulevard (“the subject property”/ “the subject lands”).

[2] Sanders proposes to redevelop the subject property and construct a mixed-use commercial/residential development which includes a 9-storey condominium building containing ground floor commercial space and 160 residential suites, as well as 2 townhouse blocks containing 22 residential units, for a total of 182 residential units.

Area Context

[3] The subject property is located in the Ainslie Wood North neighbourhood within the City of Hamilton. More specifically, the subject site is located on the north side of Main Street West between West Park Avenue and Westbourne Road.

[4] The subject property is of an irregular shape and has an area of approximately 0.5 hectares. The lands are currently developed with a 1-storey restaurant (currently vacant) and a 1-storey student residence building known as Binkley Hall (also currently vacant).

[5] The subject property is surrounded by a variety of uses. To the north, east and west are singled-detached and multiple dwellings. There are multi-unit residential buildings abutting the subject lands to the north and east, as well as a multiple dwelling on the west side of West Park Avenue. The multi-unit dwellings consist of 3 and 3.5-storey walk-up apartments.

[6] Further west along Main Street West, just beyond the hydro corridor, is a 9-storey student residence on the north side of the road.

[7] South of the subject lands are predominantly commercial uses.

[8] East of Cootes Drive, approximately 800 metres from the subject lands, is the main campus of McMaster University, a major activity centre that is a focal point of the neighbourhood.

Proposed Development

[9] The intent of the proposed development is to establish a 9-storey mixed-use building with ground floor commercial uses and dwelling units above fronting onto Main

Street West, as well as 2 townhouse blocks or maisonettes situated north of the condominium tower and aligned in a north/south direction towards Sanders Boulevard.

[10] The development is comprised of 160 residential suites in the mixed-use building and 22 residential suites in the maisonette buildings. Indoor amenity space will be provided on the ground floor of the multiple dwelling. In addition, parking at a ratio of 0.6 spaces per residential unit and 18 bicycles will be provided on site.

The Hearing

[11] The Hearing of the Appeal took place over the course of four days. The conduct of the Hearing was governed by a procedural order issued on July 2, 2021.

[12] The Tribunal heard from 3 witnesses, on behalf of the Parties. All witnesses were qualified to provide expert evidence in their respective fields, as follows:

Appellant's Witnesses

- Matthew Johnston – land use planning;
- Ralph Bouwmeester – shadow analysis;

City's Witness

- Mark Kehler – land use planning.

[13] It was agreed, on consent of the Parties, that the expert witness for transportation would not be required for the Hearing as all transportation issues had been resolved.

The Issues

[14] The Issues List forming part of the Procedural Order governed the presentation of the evidence and the Hearing of this Appeal. From a policy context, the issues before the Tribunal require the general determinations of whether the proposed OPA and ZBLA have sufficient regard to the provincial interests listed in s. 2 of the *Planning Act*, is consistent with the Provincial Policy Statement, 2020 (“PPS”), conforms to the Growth Plan for the Greater Golden Horseshoe, 2019 (“Growth Plan”), conforms to the Urban Hamilton Official Plan (“UHOP”) and the Ainslie Wood Westdale Secondary Plan (“AWWSP”), and, in general, represents good planning and is in the public interest.

[15] Based on the expert evidence both in written submissions and oral testimony during the course of this Hearing, the Tribunal notes that a majority of planning matters related to provincial policies are uncontested between the two planning experts. The Tribunal also notes that both experts agree that the subject lands are under-utilized and are suitable for additional density.

[16] As well, the evidence presented by both planning experts confirmed that the proposed 2 townhouse blocks are not contested at this Hearing.

[17] The only area of disagreement between the experts relate to built form and massing of the proposed 9-storey structure and its resultant shadow and overlook/privacy impacts.

[18] At the outset of the Hearing, Mr. Johnston provided the Tribunal with a comprehensive overview of the area context, including aerial and visual photographs to aid the Tribunal.

[19] He advised the Tribunal that the neighbourhood where the subject property resides can be characterized by a mix of residential types, including single detached and multi-unit dwellings. A development proposal that is located directly across from

the site on Main Street looks to be advertising a 24-storey residential building nearby. Additionally, east of the site at 9 Westbourne Road is a zoning amendment to convert an existing school into a student residence. He explained that indicates the community is in the process of intensifying from low-rise, low-density built forms to those with higher densities.

[20] He opined that the neighbourhood is evolving and that “change is coming”.

[21] Mr. Johnston also provided a chronological overview of the extensive application process with ongoing dialogue between Sanders and the City, during that time 7 separate submissions were made over a two-year period to progressively address concerns raised by the public and City staff.

The *Planning Act*

[22] At the outset of his oral testimony, Mr. Johnston provided the Tribunal with a thorough review of the requirements under s. 2 of the *Planning Act*, with his professional opinion and commentary on subsections (a) through to subsection (r), and concluded by providing his opinion that the proposal had appropriate regard for matters of provincial interest.

[23] He noted that no natural heritage or built heritage features were identified on the subject lands.

[24] Mr. Kehler, the City’s witness, did not provide any commentary in his witness statement or oral testimony regarding matters of provincial interest as defined in the *Planning Act*, the Tribunal is thus left to assume that this matter is uncontested by the City.

Provincial Policy Statement (2020)

[25] Based on the uncontroverted evidence presented during the course of this Hearing from the two land use planning experts, the Tribunal finds that the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2019)

[26] Again, the uncontroverted evidence as presented by both of the land use planning experts confirms that the proposal conforms to the Growth Plan and is not contested at this Hearing.

[27] Mr. Johnston did note, however, that the Growth Plan indicates a target population for the City of 820,000 persons by 2051. At the present time, there is a disconnect between the Growth Plan and the UHOP, and the City has initiated a Municipal Comprehensive Review on the premise of no urban boundary expansion in order to properly respond to these target population numbers.

Urban Hamilton Official Plan

[28] Mr. Johnston explained to the Tribunal that the UHOP was adopted by Council on July 9, 2009 and approved by the Ministry of Municipal Affairs and Housing on March 16, 2011.

[29] He stated that the subject lands are located in an area that is designated as *Neighbourhoods* which is indicated on Schedule D: Urban Structures in the UHOP. This designation embodies the concept of a complete community and primarily consists of residential uses and complementary facilities and services to serve residents. The intent of this *Neighbourhoods* designation is to allow for the continued evolution of neighbourhoods including compatible residential intensification with a full range of housing forms and types.

[30] The subject lands are in a Secondary Corridor, which is intended to maintain and enhance the mixed-use nature of major streets linking communities and creating a vibrant pedestrian and transit-oriented place through investment in infrastructure, residential intensification, infill and redevelopment.

Ainslie Wood Westdale Secondary Plan

[31] Mr. Johnston also made reference to the AWWSP which was approved by City Council in 2005. The subject lands are designated mixed-use medium density, which aims to provide a wide variety of housing forms and densities for many types of households, encourage new infill housing to be compatible with surrounding residential development and create opportunities for and direct higher densities to locate along major roads.

[32] Mr. Johnston told the Tribunal that this density designation permits residential and commercial uses for either a stand-alone development or in a mixed-use building, but to a maximum height of three storeys with residential densities of 30 – 49 units per gross hectare being permitted.

[33] Mr. Johnston explained to the Tribunal that, since the proposal for the subject lands has a residential density of 385 dwelling units per hectare and a maximum building height of 9 storeys for the multiple dwelling, a proposed OPA is being brought forward to include a new site specific policy for the subject lands to permit the proposed development.

[34] Mr. Johnston opined that the Secondary Plan, which was approved in 2005 and has not been given an over-haul to align with provincial policies, is dated and overly restrictive with respect to building heights and densities.

[35] The Tribunal notes that the issue of this Secondary Plan is at the root of the major disconnect between the Appellant and the City in terms of building height and massing and adherence to the Zoning By-Law regulations associated with same.

Issue No. 1: Does the proposal comply with the policies of the UHOP, including but not limited to policies E.2.4 related to Urban Corridors and E.4.0 related to Mixed Use-Medium Density Designation?

[36] Mr. Johnston advised the Tribunal that the City has identified the area where the subject lands are located between the McMaster Campus and Osler Drive as a Secondary Corridor. The subject lands have frontage on Main Street West, which has been identified as a major arterial road.

[37] With respect to policy E.2.4, Mr. Johnston opined that the proposal supports the vision of the UHOP by transforming under-utilized land, and increasing densities to support growth objectives, allowing this neighbourhood to evolve.

[38] He further opined that the proposal conforms to the intent of the Secondary Corridor designation by contributing to establish Main Street West as a vibrant pedestrian and transit-oriented place, the subject lands being an optimal location for higher density land uses that would support the proposed Light Rail Transit service.

[39] Mr. Kehler agreed that the proposal complied with the intended function and permitted uses of the Secondary Corridor element of the Urban Structure and Mixed Use-Medium Density designation relating to policies E.2.4.3, E.2.4.6, E.4.6.2 and E.4.6.5. He opined that the proposal is transit supportive, maintains the commercial function of Main Street West by providing commercial space at grade and would appropriately increase the proportion of multiple storey, mixed use buildings with at-grade commercial uses along the Main Street West Secondary Corridor.

[40] Mr. Kehler further confirmed that the two stacked townhouse dwellings, in his opinion, comply fully with policies E.2.4 and E.4.0 and that they provide for an appropriate built form within the neighbourhood.

[41] Mr. Kehler made reference to the AWWSP, which establishes a maximum building height of three storeys for the subject property and the associated Zoning By-law includes setback and step back provisions to minimize the effects of shadowing and overview on adjacent properties. He was adamant in his opinion that the proposed 9-storey condominium tower did not conform to the requirements of this Secondary Plan.

[42] He opined that the proposed 9-storey mixed-use building fails to provide for an appropriate gradation of building heights on site and within the neighborhood by introducing an abrupt increase in building height within an existing built form context, currently characterized by 1 to 3.5-storey buildings.

[43] In response, Mr. Johnston told the Tribunal that, in fact, the proposal provides appropriate gradation of height from the existing built form of single detached dwellings to a 3.5-storey walk-up apartment and then to the proposed 9-storey condominium. He disagreed with Mr. Kehler's assertion that additional height must be accompanied by additional setbacks and step backs. Mr. Johnston told the Tribunal that policy E.4.6.8 states that the proposal must demonstrate no adverse shadow impacts. The policy also states that the proposal may include angular plane adjustments to minimize the height appearance where necessary.

[44] From the planning evidence presented by both experts, the Tribunal notes that both experts agree that the proposal has regard for provincial policies and generally conforms to the UHOP, with the exception that Mr. Kehler is rigidly adhering to the policies of the AWWSP which he states supersede the UHOP policies and limit heights to 3-storeys.

[45] In this instance, the Tribunal prefers the evidence presented by Mr. Johnston, and is inclined to agree that the built form being proposed is acceptable. The issue of AWWSP policies will be discussed further in this Decision.

Issue No. 2: Does the proposal meet the residential intensification policies of the Urban Hamilton Official Plan, including policies B.2.4.1.4 and B.2.4.2.2?

[46] Mr. Johnston provided evidence to the fact that the proposed development has been designed to be compatible with the existing character and function of the neighborhood. He opined that the development respects the character, scale and appearance of the surrounding area which is characterized by variation. The proposal enhances the character of the area by further optimizing an under-utilized parcel along one of the City's main corridors. It builds upon the established patterns and built forms by transitioning height and density from the low rise single detached dwellings to the north to a 3.5-storey walk-up apartment to the proposed 9-storey building. This transition, in his opinion, maintains the angular plane as required by the Hamilton City Wide Corridor Planning Principles and Design Guidelines.

[47] Mr. Johnson also took the Tribunal to Table 1 of the above-noted guidelines, which shows a sliding scale of multiple dwellings up to 12 storeys being envisioned for properties with various depths. He explained that the purpose of the table is to identify that a sliding scale can be utilized to provide guidance when determining potential building heights related to lot size, width, and depth.

[48] Mr. Johnston further stated that the proposal will improve housing availability in the neighborhood, particularly for families in the City where a shortage of appropriate rental housing currently exists. The proposed development, consisting of condominium studios, 1 and 2-bedroom residential units will contribute to a range of dwelling types and tenures within the neighbourhood.

[49] Mr. Johnston opined that the proposal fulfils the intent of the Urban Structure designation as it is mixed use, will provide for intensification along a major arterial road and is located in close proximity to existing and future public transit routes.

[50] Mr. Johnston next took the Tribunal to the definition of compatibility in the UHOP and opined that the proposal is in fact compatible with the surrounding land uses. He opined that compatibility does not necessarily mean the “same as” but refers to different land uses co-existing in harmony with each other.

[51] Mr. Kehler agreed that the proposed development contributes to achieve a range of dwelling types by providing both apartment style dwellings and grade related stacked townhouses. He also confirmed that there is adequate water, sanitary and stormwater infrastructure to service the development and that the traffic generated by the proposal can be accommodated within the existing road network.

[52] However, he disagreed with Mr. Johnston and stated that, in his opinion, the proposal does not maintain the established character of the neighborhood by introducing a 9-storey building adjacent to a built form that is dominated by 1 to 3.5 storey buildings.

[53] The Tribunal notes that Mr. Kehler’s concerns with respect to the gradation of the 9-storey proposal adjacent to a 3.5-storey apartment dwelling is primarily based on the zoning regulations in place to implement the AWWSP. The Tribunal notes that the 45-degree angular plane taken from the south property line of the single detached dwelling north of the proposal does not breach the 9-storey structure, whereas in fact the existing 3.5 storeys apartment actually breaches this plane.

[54] The Tribunal prefers the evidence provided by Mr. Johnston and finds that the proposal meets the residential intensification policies.

Issue No. 3: Does the proposed development maintain or enhance the character of the area or neighbourhood?

[55] Mr. Johnston advised the Tribunal that the proposed development is located on Main Street West, which is identified as a major arterial road and a Secondary Corridor within the UHOP. The community is in a state of transition, an evolution from low rise dwellings to more dense residential built forms such as multiple dwellings and townhouses. The subject site is a 5-kilometre drive to the downtown Urban Growth Centre Node and approximately 800 metres west of the McMaster University campus.

[56] Mr. Johnston opined that the subject lands are a natural candidate for population growth and intensification over the coming decades due to their proximity to major institutions, commercial and retail centres and higher order transit.

[57] Mr. Johnston told the Tribunal that the proposal will contribute to a range of housing types and densities in the neighborhood and, in his opinion, the proposed built form exemplifies an adequate transition in height and density.

[58] Mr. Kehler, in his oral testimony, agreed that the mixed-use corridor is anticipated to experience more significant change in its evolution, however, he reminded the Tribunal that the character of the surrounding neighborhood consists of a stable residential area.

[59] While he agreed that the proposed stacked townhouse dwellings maintain the low rise residential character of the neighborhood, he remained adamantly opposed to the 9-storey mixed use building which, in his opinion, does not provide for an appropriate transition and building height that would maintain or enhance the character of the adjacent stable residential area.

[60] Mr. Kehler opined that, if approved, the proposed development would alter the character of the corridor in a manner that is not in keeping with the intent of the UHOP

as he believes that the Main Street corridor consists of moderately scaled buildings that achieve an appropriate transition in building height to adjacent residential areas.

Issue No. 4: Is the proposed height, scale, massing and arrangement of buildings and structures compatible with the existing and future uses in the surrounding area?

Issue No. 6: Is the subject proposal compatible with the surrounding existing uses?

[61] It was agreed on consent of the Parties that Issue Nos. 4 and 6 were identical and would be dealt with at the same time.

[62] Mr. Johnston took the Tribunal to the definition of *compatible/compatibility* in the UHOP, which reads as follows:

means land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area. Compatibility or compatible should not be narrowly interpreted to mean the same as or even as being similar to.

[63] On this basis, Mr. Johnston opined that the proposed development is compatible with the surrounding context of the site as the built form and supporting studies demonstrate the proposed development does not create any undue or adverse impacts on the neighborhood.

[64] Mr. Kehler did not agree with the opinions expressed by Mr. Johnston on the issue of compatibility. He took the Tribunal to various sections of the Corridor Guidelines and opined that property size, and in particular depth, is an important consideration when determining the development potential of the subject lands.

[65] Mr. Kehler expressed his concerns that, if the guidelines were followed properly in accordance with the AWWSP and zoning regulations, then any proposal above three-storeys would require step backs to meet the angular plane guidelines.

[66] He also expressed his concern regarding the potential canyon effect along Main Street West, and that the angular plane was breached on the ninth floor by 2 degrees if the guidelines were applied.

[67] Mr. Johnston gave evidence regarding the existing 9-storey residence at 1686 Main Street West. He told the Tribunal that this building currently breaches the maximum 45-degree angular plane. With the understanding that this structure was approved prior to the establishment of the Corridor Guidelines, Mr. Johnston opined to the Tribunal that the structure does not negatively impact the Main Street corridor.

[68] With respect to the angular planes along the Main Street West corridor, the Tribunal accepts the evidence proffered by Mr. Johnston that the minor breach of 2 degrees in accordance with the guidelines will not negatively impact pedestrians on the ground. In fact, as suggested by Mr. Johnston, the guidelines refer to the 45-degree angular plane originating at a point (80%) of the road width from the face of building, which would put the pedestrian standing in the middle of the travelled lane. The actual angular plane, if measured from the sidewalk, is within the guidelines.

[69] The Tribunal understands that 1686 Main Street West is not comparable to the situation at 1630 Main Street West regarding the surrounding context but accepts the evidence of Mr. Johnston regarding the lack of impact on the angular plane for pedestrians along the road.

[70] The Tribunal also notes, that if it were to accept the evidence of Mr. Kehler and allow the guidelines to be rigidly adhered to, the practical allowable and buildable height of the condominium building would be reduced to 3-storeys or perhaps 4-storeys at the

most.. This may satisfy the current AWWSP policies but will not be in compliance with provincial policies.

Issue No. 5: Does the proposed Development respect the existing built form of adjacent neighborhoods by providing appropriate setbacks and step backs graduation in building height building mass and densities by locating and designing the development to provide adequate light access minimize the effects of shadowing and overview on properties in adjacent neighborhoods ?

[71] Mr. Bouwmeester is a sun/shadow expert with many years of experience in this field, having provided expert testimony to the Tribunal on matters related to sun shadow impact on many previous occasions.

[72] Mr. Bouwmeester took the Tribunal to his December 2019 shadow study and explained in detail the projected shadowing resulting from the proposal on an hourly basis for both the spring and summer equinoxes.

[73] Mr. Bouwmeester used three scenarios for his shadow study: the first being the proposed 9-storey proposal, the second being a theoretical 8-storey concept and the third being the “as of right” zoning heights. Mr. Johnston explained that the second scenario was based on an assumption of 6-8 storey permissions allowed by the Secondary Corridor envisioned by the UHOP Urban Structure.

[74] Mr. Kehler advised the Tribunal that he objected to the use of the second scenario above, as it had no approved status with the City.

[75] The Tribunal tends to agree with Mr. Kehler’s concern regarding the second scenario and will take this matter into consideration when weighing the evidence.

[76] One of the key concerns raised by Mr. Kehler was the impact of shadows from the proposed 9-storey condominium on the existing 3.5 storey walk-up apartment building at 10 West Park Avenue.

[77] Mr. Johnston provided the Tribunal with several photographs showing the rear of 10 West Park Avenue. The photographs indicated that there was no existing amenity space behind the building. Mr. Johnston further opined that the existing balconies at the rear, with a depth of only 1 metre, are not considered as amenity space.

[78] He advised the Tribunal that, as demonstrated in the Comparative Sun/Shadow Study dated December 2, 2019, the proposed building creates minor incremental shade on the apartment building to the north above and beyond the as-of-right condition. In addition, the private amenity areas (i.e., balconies) on the east façade of the apartment building are not significantly impacted by the proposal in terms of shadowing when taking the existing condition into consideration.

[79] He advised the Tribunal regarding the email correspondence from Mr. Bouwmeester which demonstrates that the balconies are shaded by their own building between approximately 12:00 p.m. and sunset on March 21st. When applying the City's Shadow Impact Criteria for Downtown Hamilton, the existing conditions would not meet the minimum requirement for 3 hours of sun coverage between 10:00 a.m. and 4:00 p.m. as measured on March 21st on private outdoor amenity areas. The shadow caused by the proposed building massing therefore does not have any significant adverse effects on the private amenity areas of this existing apartment building.

[80] The Tribunal, in reviewing the evidence presented by both Messrs. Johnston and Bouwmeester, finds that the shadow impact from the proposal is tolerable given the existing condition. Mr. Kehler's concern regarding use of the 8-storey scenario as a comparable is legitimate, but the Tribunal nevertheless prefers the evidence proffered by the Appellant's witnesses that shadowing on the surroundings, in particular 10 West Park Avenue, is limited and acceptable.

Issue No. 7: Does the proposal comply with the Mixed Use-Medium Density and Mixed Use-Medium Density-Pedestrian Focus policies of the Ainslie Wood Westdale Secondary Plan, including but not limited to policies B.6.2.7.2 b), d) and e)?

[81] Mr. Johnston opined that the proposal is in keeping with the predominant character of the area as required by the above policies. In this regard, he stated that the character of the area is composed of singles, semis and low-rise multiple dwellings. The ZBLA prescribes appropriate setbacks while materiality will be further implemented at the site plan stage.

[82] Mr. Johnston told the Tribunal that the existing Secondary Plan was adopted in 2005 prior to the current provincial policy framework and Growth Plan. Based on the subject property being located within the Urban Settlement Boundary for the Municipality, the proposed development aids the City in achieving their growth target and implements appropriate intensification within the delineated built-up areas. In planning to 2051, as part of the Growth-Related Integrated Development Strategy (GRIDS 2) municipal comprehensive review being conducted by the City, staff have recommended the "Ambitious Density" target to be incorporated into the UHOP. In efforts to minimize the extent of an urban boundary expansion, this City staff recommendation calls for 50% of growth to be located within the built-up area to 2031, 60% to 2041 and 70% to 2051 as per City Staff Report No. PED17010. As expressed by City staff, it is estimated that approximately 10-12 development projects like the one proposed will need to be implemented per year for the City to meet the targets it has set out for itself. The proposed development helps the Municipality in achieving this target through the redevelopment and appropriate intensification of an under-utilized site, which is on a corridor where high density land uses are already directed.

[83] Mr. Johnston further stated that, at the March 29, 2021 General Issues Committee meeting, staff identified the historic inability to meet provincial intensification requirements. Currently, UHOP requires 20% of all intensification in the Downtown, 40% in the Nodes and Corridors and 40% in Neighbourhoods; but since 2006 to 2018,

only 13% actually occurred in downtown and only 19% in the nodes and corridors. Over that same period, 40% of all growth was supposed to be via intensification but instead, only hit 42% in 2015. All other years ranged between 25-38%.

[84] Mr. Johnston concluded by stating his strong opinion that developments like the one proposed are critical to achieve the required intensification targets.

[85] Mr. Kehler stated that staff did not raise concerns with the materials shown on the conceptual renderings, and agreed that the materials can be refined further at the site plan control stage. He also stated that the ground level setbacks are in keeping with the existing and planned character of the area by locating the 9-storey building at the street line with retail at grade to provide for a pedestrian oriented mixed use development.

[86] However, Mr. Kehler opined that the design would be made stronger by introducing a physical step back above the third storey that would reduce the perceived scale of the building from the street.

[87] Mr. Kehler made reference to the maximum 3-storey building height established in policy B.6.2.7.2 b) of the Secondary Plan which allows for intensification and is reflective of the existing built forms along Main Street West.

[88] Mr. Kehler rigidly adhered to the Secondary Plan policies and opined that the existing proposal for a 9-storey building along Main Street West does not meet the intent of policy B.6.2.7.2 b) because appropriate design measures in the form of setbacks and an appropriate gradation of heights in the form of step backs have not been taken to mitigate the impact of the additional building in terms of built form, transition, shadow and overlook.

[89] Under cross-examination, Mr. Kehler agreed he was aware of the Municipal Comprehensive Review underway at the City, but he argued that this study is premature at the present time and relied solely on the existing Secondary Plan policies.

[90] In this case, the Tribunal prefers the evidence proffered by Mr. Johnston, as applications such as these need to be reviewed through the lens of the current PPS and Growth Plan. The AWWSP has not been updated, with the exception of some site-specific amendments, since 2005.

Issue No. 8: Does the proposal comply with the urban design policies of the Ainslie Wood Westdale Secondary Plan, including but not limited to B.6.2.13.1 b) and B.6.2.13.2 c) as it relates to the proposed 9-Storey building with a density of 385 units per gross hectare?

[91] Mr. Johnston explained to the Tribunal the nature of the 1-metre step back on the west face of the 9-storey condominium, as well as the proposed terracing on the north side of the proposed building. He opined that the architectural work undertaken by Architectural Design Inc. ensured that the proposed development would provide a gateway into the existing neighbourhood.

[92] Mr. Kehler remained firm in his opinion that the proposed 9-storey mixed use building does not compliment and does not enhance the existing character of the surrounding neighborhood that features 1 to 3.5-storey buildings. The proposed massing of the building does not achieve an appropriate transition in scale in the form of step backs to the adjacent neighborhood to the north.

Issue No. 9: Does the proposal have any adverse impacts on the surrounding existing development with respect to overlook, privacy, buffering between neighbouring land uses and, traffic and if so, how have these impacts been appropriately mitigated?

[93] This issue has already been addressed by both land use planning experts in their expressed opinions on previous issues related to built form and massing.

[94] Mr. Kehler did make reference to the buffering proposed on site in the form of landscaped areas along the east and west property lines. In addition, 1.8 metres privacy fences are proposed along property lines to mitigate adverse impacts from traffic utilizing the access driveway and ramp to the underground parking. If the proposed application is approved, he recommended that the 0.67 metres strip shown between the access driveway from West Park Avenue and the adjacent property to the north (10 West Park Avenue) be a required planting strip in the Zoning By-law to further mitigate noise and light impacts from vehicle traffic.

Issue No. 10: Are the proposed site-specific performance standards compatible and in keeping with the intent of the Zoning By-Law?

[95] Policy 1.1.3.4 of the PPS states: “appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety”.

[96] Mr. Kehler expressed some concerns in his Reply Witness Statement regarding the proposed wording in the submitted draft ZBLA, which Mr. Johnston agreed with.

[97] In response, Mr. Johnston introduced a revised draft of the proposed ZBLA as Exhibit 7 during the Hearing and a revised draft of the OPA as Exhibit 4, to address and “button up” some loose ends.

[98] Mr. Kehler was generally satisfied with the proposed revisions to the draft ZBLA as presented in Exhibit 7. However, Mr. Kehler stated he could not support the draft OPA for the reasons stated earlier with respect to the proposed building heights above 3-storeys.

Issue No. 11: What, if any, holding provisions are appropriate for the development?

[99] Mr. Kehler told the Tribunal that a Record of Site Condition (“RSC”) is required for the subject property due to its former commercial uses. He stated that standard practice in the City is to require a Holding Provision prohibiting development until acknowledgment is received from the Ministry of the Environment, Conservation and Parks that a RSC has been filed. Therefore, should the applications be approved, he recommended that a Holding Provision be included in the ZBLA.

[100] Mr. Johnston indicated that, in his opinion, there was no direct cause or need for a Holding Provision. He stated that the RSC was applicable law, and this had to be satisfied prior to the issuance of a building permit by the Chief Building Official.

Issue No. 12: Does the proposed development represent good land use planning and is in the public interest?

[101] Mr. Johnston opined that it was his independent professional planning opinion that the proposed development represents good land use planning and is in the public interest. The proposed OPA and ZBLA have regard for matters of provincial interest as identified in the *Planning Act*, are consistent with the PPS, fully comply with and implement the Growth Plan, complies with and implements the goals and objectives of the Official Plan and Secondary Plan and implement the intent of the Zoning By-Law.

[102] Mr. Kehler agreed that the subject property is an appropriate location for residential intensification and mixed-use development. He further agreed that this proposal was consistent with provincial policies and supported the municipal policy framework.

[103] However, Mr. Kehler was consistent with his opinion that the proposed 9-storey mixed use building is not compatible with the future mid-rise character of the Main

Street West corridor. He stated that the lot depth of 26.48 metres was less than the minimum 35 metres recommended in the Corridor Guidelines, and the increase over the permitted 3-storey height as permitted in the AWWSP is not compatible with the scale and character of the existing neighbourhoods.

[104] Mr. Kehler opined that the proposed development does not represent good land use planning and is not in the public interest.

Analysis and Disposition

[105] Over the course of this four-day Hearing, with oral and written testimony submitted by the expert witnesses, it became evident that the proposed OPA and ZBLA has regards for matters of provincial interest as outlined under s. 2 of the *Planning Act*. This was uncontested by the City's land use planner.

[106] The Tribunal also notes that the proposal is consistent with the PPS and conforms with the Growth Plan, and this fact is uncontested by the two land use planners.

[107] The only issue left is the building massing and the associated impacts of overlook, privacy, and shadowing.

[108] The Tribunal heard, during the course of this Hearing, that the AWWSP, which forms part of the UHOP, was approved in 2005, some 17 years ago. While some site-specific amendments have been approved by the City, the fact remains that the Secondary Plan is dated and has not been amended to comply with current provincial policies.

[109] The Tribunal also heard that the City has embarked on a Municipal Comprehensive Review (GRIDS 2) in an effort to address provincial policy direction, and this work is currently actively underway. Although not at issue at this Hearing, the

Tribunal heard that the City plans to embark on an “aggressive” approach to meet Growth Plan targets.

[110] The City’s land use planner stated that the most important vehicle for implementation of the PPS is the Official Plan. He relies on the AWWSP policies and Corridor Guidelines to form his opinion that this proposal is not good planning.

[111] In contrast to this position of Mr. Kehler, the Tribunal notes that Policy 4.6 of the PPS states that “planning authorities shall keep their official plans up-to-date with this PPS”. The Tribunal notes that an OPA is in fact a means of keeping the City’s Official Plan up to date with the current PPS.

[112] The Tribunal finds that the reference in the AWWSP to absolute limits on heights and densities is an unreasonable and overly rigid policy expectation that, if enforced literally as suggested by Mr. Kehler, would have a detrimental effect on achieving good planning outcomes as envisioned by provincial policy.

[113] With respect to the impact of building massing on 10 West Park Avenue, the Tribunal finds that the impacts are tolerable. Being compatible with implies nothing more than being capable of existing together in harmony.

[114] With respect to a request for a Holding Provision, the Tribunal finds that the RSC is applicable law and will be required to be fulfilled prior to a Building Permit being issued. That being said, the Tribunal finds that there is no need to have a Holding Provision, as this would add another layer of bureaucracy to the process.

[115] The Tribunal, having the benefit of four days of expert witness testimony regarding all the issues and based on the evidence provided, is satisfied that the proposed OPA and ZBLA, entered into evidence as Exhibit Nos. 4 and 7 respectively, are appropriate for this location. The Tribunal finds that the proposed development represents good planning and has regards for matters of provincial interest under s. 2 of

the *Planning Act*, is consistent with the PPS, conforms with the Growth Plan, conforms to the UHOP, generally conforms to the Secondary Plan and represents good planning.

ORDER

[116] **The Tribunal Orders** that the appeal is allowed, and the Official Plan for the City of Hamilton is amended as set out in Attachment 1 to this Order.

[117] **The Tribunal further Orders** that the appeal is allowed, and the Zoning By-Law No. 05-200 is amended as set out in Attachment 2 to this Order.

[118] **The Tribunal further Orders** that the requirement of a 0.67 metre planting strip along the north property line adjacent to 10 West Park Avenue be incorporated in the Zoning By-Law and addressed at the Site Plan Approval stage.

“T. Prevedel”

T. PREVEDEL
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

OLT-21-001801 - Attachment 1**Urban Hamilton Official Plan Amendment No. ____**

The following text constitutes Official Plan Amendment No. ____ to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose of the Official Plan Amendment (OPA) is to identify a Site Specific Policy area to permit a maximum gross residential density of 385 units per hectare and a maximum height of nine storeys for a multiple dwelling, whereas the permitted gross residential density shall generally be about 30-49 units per hectare and the permitted maximum height is three storeys for "Mixed Use – Medium Density" areas in Policy B.6.2.7 in the Ainslie Wood Westdale Secondary Plan.

2.0 Location:

The lands affected by this Amendment are All of Lots 1, 2 and 3, Registered Plan 904; and Lot 20, Registrar's Compiled Plan 1475, in the City of Hamilton, municipally known as 69 Sanders Boulevard and 1630 Main Street West.

3.0 Basis:

The basis for permitting this Amendment is as follows:

- The proposed Amendment is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe;
- The proposed Amendment will encourage residential intensification with a diverse housing mix, while supporting the existing and planned public transit in the area; and,
- The proposed built form is a permitted use in the Urban Hamilton Official Plan.

4.0 Actual Changes:**4.1 Map Changes**

- 4.1.1 Volume 2 – Map B.6.2-1 Ainslie Wood Westdale Secondary Land Use Plan is further amended by identifying the subject lands as Site Specific Policy – Area ____, as shown on Appendix A, attached.

4.2 Text Changes

- 4.2.1 Volume 2, Chapter B – Hamilton Secondary Plans, Section 6.2 Ainslie Wood Westdale Secondary Plan is amended by adding a new Site Specific Policy – Area ____ to read as follows:

Site Specific Policy – Area ____

- 16.2.17.7 Notwithstanding Policy B.6.2.7.2 e) and h) ii) for the lands designated Mixed Use – Medium

Density, located at 1630 Main Street West and 69 Sanders Boulevard, and identified as Site Specific Policy – Area ___ on Map B.6.2-1 – Ainslie Wood Westdale – Land Use Plan, the following policies shall apply:

- a) The maximum residential density shall be 385 units per gross hectare; and,
- b) The maximum height of any multiple dwelling shall be limited to nine storeys.

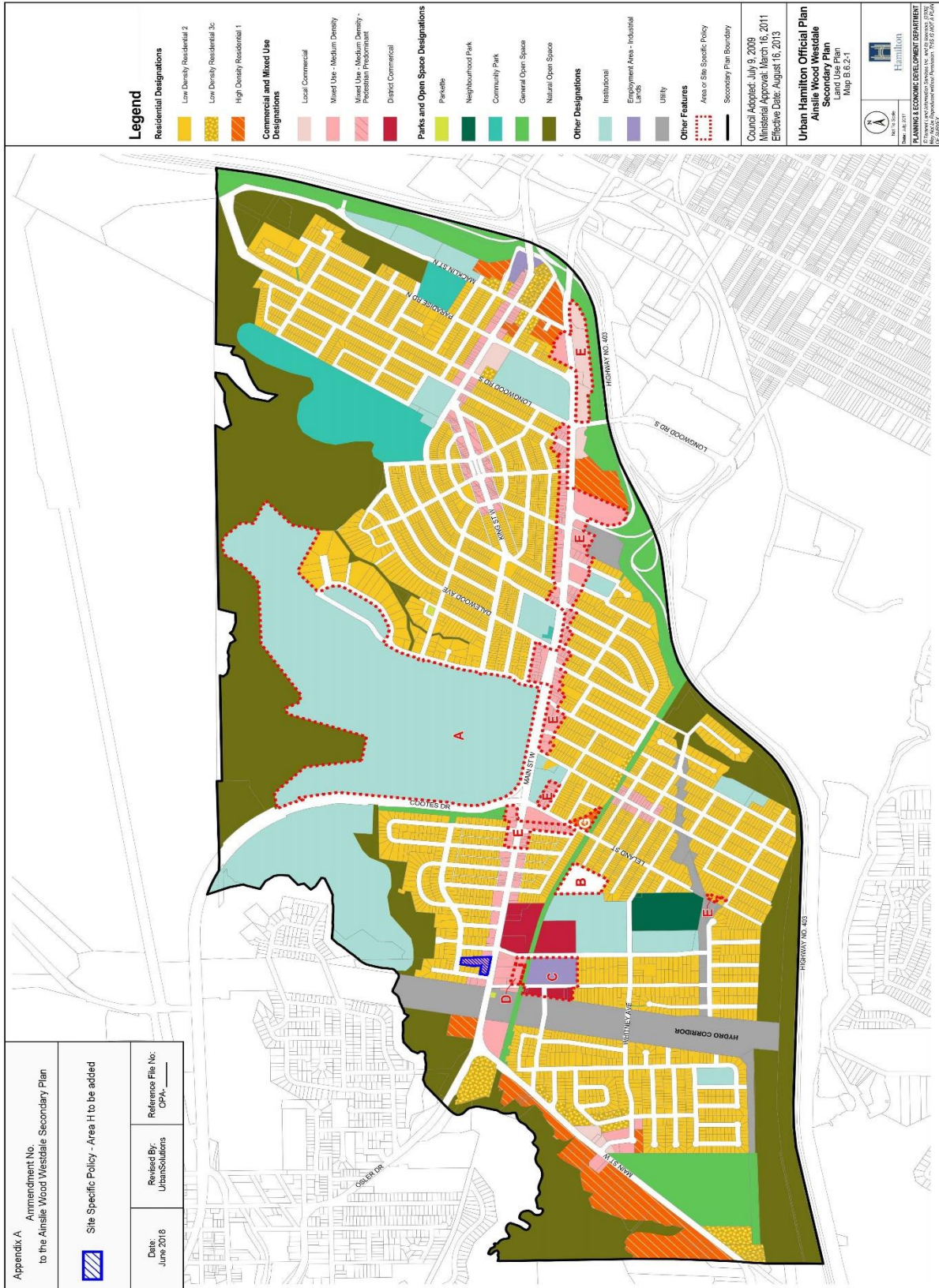
5.0 Implementation:

An implementing Zoning By-Law and Site Plan Agreement will give effect to this Amendment.

This is Schedule “1” to By-Law No. 18-___, passed on the ___ day of _____, 2019.

Mayor

Clerk



OLT-21-001801 - Attachment 2**CITY OF HAMILTON****BY-LAW NO. - ____****To Amend Zoning By-law No. 05-200 (Hamilton), Respecting Lands Located at
1630 Main Street West and 69 Sanders Boulevard**

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to different areas incorporated into the City by virtue of the *City of Hamilton Act 1999*, Statutes of Ontario, 1999 Chap.14;

WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

WHEREAS the Council of the City of Hamilton, in adopting Item ____ of Report PED22____ of the Planning Committee, at its meeting held on the ____ th day of ____ 2022, which recommended that Zoning By-law No. 05-200 be amended as hereinafter provided; and,

WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. __ of Schedule "A" – Zoning Maps of Zoning By-law No. 05-200, be amended by changing from the Mixed Use Medium Density (C5, 570) Zone in Block 1, and Major Institutional (I3, 17) Zone in Blocks 2, 3 and 4, to Mixed Use Medium Density (C5, ____), for the lands, the extent and boundaries of which are shown on Schedule "A" annexed hereto and forming part of this By-law.
2. That Schedule "C" Special Exceptions of By-law No. 05-200 be amended by adding special exception as follows:

" ____ Within the lands zoned Mixed Use Medium Density (C5,____) identified on Map ____ of Schedule "A" Zoning Maps and described as 1630 Main Street West and 69 Sanders Boulevard the following special provisions shall apply:

- a) Notwithstanding Sections 5.6 c), 10.5.3 c), 10.5.3 d), and 10.5.3 h) i), 10.5.3 h) ii), 10.5.3 i); the following special provisions shall also apply:

REGULATIONS

- | | |
|--|---|
| a) Parking Spaces | Shall be provided on the basis of 0.6 parking spaces per dwelling unit. |
| b) Minimum Setback from a Street Line (West Park Avenue) | 0.0 metres , except 1.0 metres for the portion of the building above the 6th storey |
| Minimum Setback from a Street Line (Main Street West) | 0.0 metres |

- | | |
|--|---|
| Minimum Setback from a Street Line (Sanders Boulevard) | 4.5 metres |
| c) Minimum Interior Side Yard Setback | 7.5 metres, except 6.2 the west Interior Lot Line |
| d) Minimum Interior Side Yard for an Underground Parking Structure | Nil |
| e) Building Height | Maximum 30.0 metres for lands identified in Block 1 and a maximum of 11.0 metres for lands identified in Block 2 as indicated on Schedule F. |
| f) Amenity Area | On a lot containing 10 dwelling units or more, the following Minimum Amenity Area requirements be provided: <ul style="list-style-type: none"> i) An area of 3.5 square metres for each dwelling unit less than or equal to 50 square metres of gross floor area; and, ii) An area of 5.5 square metres for each dwelling unit greater than 50 square metres of gross floor area. |
| g) Planting Strip | Where a property line abuts a property lot line within a Residential Zone, a minimum 0.67 metres wide Planting Strip shall be provided for Block 1. |
- b) Notwithstanding Section 2(a)(h) above, a planting strip shall not be required for the eastern property line of Block 3.
- c) In addition to the definition of a Planting Strip in Section 3, a Planting Strip may include a concrete pad for bicycle parking in Block 3.
3. The By-law No. 05-200 is amended by adding this by-law to Section__ as Schedule__;
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED AND ENACTED this ____ day of _____, 2022.

Mayor

Clerk




ZAC-22-_____



Figure X on Schedule F Special Figures: 1630 Main Street West and 69 Sanders Boulevard

Date:
January 10, 2022

Legend

-  Subject Lands
-  Block 1 (Max Height: 30m)
-  Block 2 (Max Height: 11m)



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 14, 2022

CASE NO(S): PL210071

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Cento Homes & Renovations Inc.
Subject:	Request to amend the Official Plan - Refusal of request by City of Hamilton
Existing Designation:	Institutional
Proposed Designated:	Medium Density Residential 3
Purpose:	To permit six townhouse dwellings
Property Address/Description:	19 Dawson Avenue
Municipality:	City of Hamilton
Approval Authority File No.:	UHOPA-20-007
OLT Case No.:	PL210071
OLT File No.:	PL210071
OLT Case Name:	Cento Homes & Renovations Inc. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Cento Homes & Renovations Inc.
Subject:	Application to amend Zoning By-law No. 3692-92 - Refusal of Application by City of Hamilton
Existing Zoning:	Small Scale Institutional
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit six townhouse dwellings
Property Address/Description:	19 Dawson Avenue
Municipality:	City of Hamilton
Municipality File No.:	ZAC-20-012
OLT Case No.:	PL210071
OLT File No.:	PL210072

Heard: November 8-10, 2021 by Video Hearing

APPEARANCES:**Parties****Counsel**

Cento Homes & Renovations Inc.

Jennifer Meader
Meredith Baker

City of Hamilton

Aisling Flarity

DECISION DELIVERED BY JATINDER BHULLAR AND ORDER OF THE TRIBUNAL**INTRODUCTION**

[1] This was a hearing conducted over two days. Cento Homes & Renovations Inc. (the “Applicant/Appellant”) owns a property located in the City of Hamilton (“City”), municipally known as 19 Dawson Avenue, Stoney Creek (the “subject property”). The Applicant/Appellant applied for approval of an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) to permit six street townhouse dwellings. The applications were refused.

[2] The Applicant/Appellant plans to develop the subject property by building five townhomes facing Dawson Avenue. On the opposite side along Dawson Avenue, Amica Development has townhomes with backyards overlooking Dawson Avenue. In general, on either side and behind the subject property, there exist detached dwellings mainly one or one-and-half-storeys in height.

[3] The requested OPA will designate the subject property from “Small Scale Institutional” to “Medium Density Residential 3”.

[4] The requested ZBA will amend Zoning By-law No. 3692-92 (“ZBL”) to permit development of the lands with residential townhouse dwellings based on Site Specific Exemption RM2-46, which includes a number of site specific regulations in order to implement the proposed development. This includes establishing a maximum

building height of 11 metres and two-and-a-half storeys and establishing specific lot areas, frontages and setbacks.

[5] For reasons that follow, the Tribunal allows the Appeals and appropriately issues the included Tribunal Order in this Decision.

WITNESSES AND EXHIBITS

[6] The Applicant/Appellant called Andrea Sinclair, an urban designer and a registered professional planner, qualified by the Tribunal to provide expert opinion evidence in the area of urban design and land use planning. The Applicant/Appellant also called City's land use planner, Shannon Mckie, under Tribunal issued subpoena. Ms. Mckie was qualified by the Tribunal to provide expert opinion evidence in the area of land use planning.

[7] The City called Allan Ramsay, a registered professional planner, qualified by the Tribunal to provide expert opinion evidence in the area of land use planning.

[8] The Tribunal received and marked the following ten exhibits for the record:

- Exhibit 1. Joint Document Book
- Exhibit 2. Visual Evidence of Applicant/Appellant
- Exhibit 3. Photographs of the City: Submitted by the City
- Exhibit 4. Visual Exhibits of the City
- Exhibit 5. Witness Statement of Andrea Sinclair
- Exhibit 5a. Reply Witness Statement: Andrea Sinclair
- Exhibit 6. Will Say: Statement of Shannon Mckie submitted by
 - the Applicant/Appellant
- Exhibit 7. Witness Statement of Allan Ramsay
- Exhibit 7a. Reply Witness Statement of Allan Ramsay
- Exhibit 8. Proposed OPA: Agreed statement of facts
- Exhibit 9. Proposed ZBA
- Exhibit 10. Excerpted Amica Approved ZBA

[9] The evidence presented by all witnesses were focussed on aspects of land use planning as in the Exhibits as well as the Municipal record on file. The parties

have also previously agreed upon an issues list which formed part of the Procedural Order, which governed this Hearing.

EVIDENCE AND ANALYSIS

[10] Ms. Sinclair provided non-opinion based factual information about the subject property and its surroundings. She stated that the subject property consists of a 0.069 hectares (686.65 square metres) lot, which has \pm 36.58 metres (120 feet) of frontage on Dawson Avenue and \pm 19.05 metres (62.5 feet) of frontage on Passmore Street. She added that the subject property currently contains a vacant, two storey brick building, which was previously used as a Masonic Hall. The primary entrance to the existing building is accessed via Dawson Avenue. There is no parking on-site.

[11] Ms. Sinclair described the subject property context as follows:

North: Single detached dwellings on the north side of Passmore Street.

East: Townhomes on the opposite side of Dawson Avenue. The townhomes are part of a larger retirement development (Amica).

South: Single detached dwellings along Dawson Avenue. The Subject Property abuts the side lot line of one single detached dwelling.

West: Single detached dwellings located on Passmore Street. The Subject Property abuts lot line of one single detached dwelling.

[12] Ms. Sinclair provided details regarding the approvals requested from the City. She stated that the Applicant/Appellant sought a change in designation from existing "Small Scale Institutional" to "Medium Density Residential 3" in the City's Official Plan (the "OP") and sought to amend Zoning By-law No. 3692-92 to permit development of the lands with residential townhouse dwellings. Whereas originally the Applicant/Appellant planned to build six three storey tall townhomes, she stated that it was modified in dialog with City staff to five townhomes at two-and-a-half storey height each.

[13] In the testimony presented at the Hearing, Ms. Mckie supported the expressed testimony, the policy analysis and conclusions reached by Ms. Sinclair. She testified that the approval of the OPA and ZBA is appropriate as it reflected a final proposal that the Applicant/Appellant evolved to, in due consideration, with the planning inputs provided by the City planning staff.

The *Planning Act* (“Act”)

[14] The matters of provincial interest is identified for consideration as follows in the Issues List (“IL”);

1. Does approval of the applications have regard to matters of provincial interest in section 2 of the *Planning Act* including the matters set out in sections 2(h), 2(n), 2(p) and 2(r) therein?

[15] Ms. Sinclair testified that in addressing s.2(h), the proposed development represents an orderly development of safe and healthy communities. She stated that with respect to the s. 2(n), the proposed development is a residential development in a residential area. She opined that this subsection relates to situations where conflicts may arise in terms of broader public interest and the proposed use. In reviewing s. 2(p), Ms. Sinclair testified that the proposed development is appropriate in terms of scale. She added that the current building represents an underutilization of the subject property and that the proposed development is compatible with the existing low density residential developments in the area. In reviewing the policy in subsection 2(r), Ms. Sinclair opined that the proposed built form for the townhomes and the associated site development encourage a sense of place and positively addresses the public streetscape. Ms. Sinclair also reviewed other sections and opined that the proposal and the requested OPA and ZBA have regard for the provincial interest as required under s. 2 of the Act.

[16] Mr. Ramsay testified that the proposal does not represent orderly development but rather over development. Mr. Ramsay also opined that the proposed development creates conflict with immediately adjacent properties. Mr. Ramsay

acknowledged that the proposed development is an appropriate area for modest growth but not appropriate for the proposed extent of the growth. He testified there could be different configurations for lesser development. Mr. Ramsay stated that the proposed development will not provide for a sense of place and specially with reduced front and rear yard setbacks, which will not fit harmoniously with the adjacent neighbourhood properties.

[17] While evaluating the evidence of Ms. Sinclair and Mr. Ramsay, the Tribunal finds that Mr. Ramsay's views of streetscape and sense of place ignore aspects of a mid-rise development as well as townhouses across the road from the subject property and other properties. The Tribunal finds that Ms. Sinclair used the appropriate lens in assessing the provincial interest within the reasonably appropriate scope of the neighbourhood as compared to Mr. Ramsay. The Tribunal relying on the evidence and comparative assessment of the opposing opinions finds that the proposed development addresses issue 1 appropriately and positively, and further , the proposed development has regard for the provincial interest as required under s. 2 of the Act.

Provincial Policy Statement 2020 (the "PPS")

[18] The key PPS policies for consideration, in the contested evidence, were as follows:

Issue 2. Are the proposed Official Plan and Zoning By-law Amendments consistent with the Provincial Policy Statement, 2020? In particular, but not limited to the following policy sections:

- Policy Sections 1.1.1, 1.1.3.2, 1.1.3.3 and 1.1.3.4 (Settlement Areas); and
- Policy Section 4.6 (Implementation and Interpretation).

[19] In reviewing these policies, Ms. Sinclair opined that the proposed development provides for efficient use of infrastructure, allows for a range of uses, and provides for additional variety in housing choices. She added that the proposal will provide for compact built forms and is aligned in density and form with the

surrounding developments including Amica. She testified that the proposed development would also use existing municipal services like water and sewer allowing for efficient use of the same.

[20] Ms. Sinclair concluded and opined that when all the applicable policies and those identified in Issue 2 are considered, the proposed development is consistent with the PPS.

[21] Mr. Ramsay testified that the proposed ZBA was not consistent with the Settlement Area policies of the PPS related to over development and the lack of consideration for existing building stock. He added that the proposal is not appropriate for an area considered as low-density.

[22] Based on the totality of evidence presented by Ms. Sinclair, the Tribunal finds that she has provided a wholesome analysis as required in consideration of the PPS as a whole. Ms. Sinclair's evidence withstood cross-examination as well as contest offered by Mr. Ramsay's evidence and the Tribunal thus finds that the proposed development is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe: 2020 Consolidation (the "Growth Plan")

[23] The issue raised for consideration is as follows;

Issue 3: Are the proposed Official Plan and Zoning By-law Amendments in conformity with the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019? In particular, but not limited to the following policy sections:

- Policy Section 1.2.1 (Guiding Principles);
- Policy Section 2.2.1 (Managing Growth); and
- Policy Section 5.2.5.8 (Implementation and Interpretation).

[24] Ms. Sinclair stated that, and Mr. Ramsay concurred that there was no contest of opinions between the two experts regarding the conformity of the proposed development with the Growth Plan.

[25] Ms. Sinclair highlighted key aspects of the proposed development and stated that it is situated within the area of built up boundaries, it contributes towards a target of 50% growth in built up areas, and it also conforms to housing policies in s. 2 of the Growth Plan.

[26] Ms. Sinclair concluded that the proposal conforms with the Growth Plan.

Urban Hamilton Official Plan, September 2013 (“UHOP”)

[27] The UHOP consideration was driven in part by Issues 4, 6, 9, 10 and 12 as follows;

Issue 4: Is the proposed Zoning By-law Amendment in conformity with the Urban Hamilton Official Plan (Volume 1)? In particular, but not limited to the following policy sections:

- Policy B.2.4.1.4 and Policy 2.4.2.1 (Residential Intensification)
- Policy B.3.3.1 (Urban Design Goals), Policy B.3.3.2.3 and B.3.3.2.6 (Principles), B.3.3.3 (Built Form)
- Policy E.1.0 (Goals)
- Policy E.2.1 (Urban Structure Principles)
- Policy E.2.6 (Neighbourhoods), E.2.6.7 (Scale)
- Policy E.3.0 (Neighbourhood Designation), E.3.1.4 - E.3.1.5 (Policy Goals)
- Policy E.3.2.4, E.3.2.7 and E.3.2.13 (Scale and Design)
- Policy E.3.3.2 (Residential Uses-General Policies)
- Policy E.3.5.9 (Medium Density-Design)

Issue 6: Does the Official Plan and Zoning By-law Amendments authorize an appropriate level of density and intensification for the subject lands?

Issue 10: Does the proposed Zoning By-law Amendment sufficiently regulate matters of built form including lot size, height, density, massing, scale, setbacks, lot coverage and landscaping having regard for the site, adjacent property and the character of the surrounding lands?

Issue 12: Does the proposed development maintain and enhance the established character of the area?

[28] In reference to Policies B.2.4.1.4 and B.2.4.2.1, Ms. Sinclair opined that the proposed development is in the “Neighbourhoods” urban structure element and this is where intensification is encouraged by the UHOP policies. Ms. Sinclair stated that residential intensification is further required to have consideration for a number of

evaluation criteria. Among these criteria, Ms. Sinclair enumerated that the following are conformed with;

b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;

d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

[29] These two criteria were the focus of opposing planning opinions by Ms. Sinclair and Mr. Ramsay. The points raised led to evidence on neighbourhood character, established patterns and compatible integration with surrounding areas in terms of use, scale, form and character.

[30] Ms. Sinclair testified that the neighbourhood contains a variety of land uses. She added that the predominant form of housing is low-rise, ground oriented dwellings oriented towards public streets. She opined that the proposed development conforms to this general character in the form of low rise townhomes, individual driveways and orientation towards Dawson Avenue. She also described that on the opposite side of the street, the townhomes located in the Amica development already exist. She stated that these Amica townhomes have their front enclosed internally within the private property away from the Dawson Avenue.

[31] Ms. Sinclair specifically cited that the proposed development is for a maximum height of two-and-a-half storeys, which is compatible with surrounding houses which range from one to two storeys. She stated that the OP as well the applicable ZBL allow the proposed height in houses. She further added that density and level of intensification are within the policy limits and are also appropriate based on the immediate as well as extended neighbourhood context.

[32] Mr. Ramsay disagreed with Ms. Sinclair and stated that the neighbourhood character is defined by generally lower height from one or one-and-a-half storey bungalows or similar homes. He added that additionally the immediate neighbourhood

is characterized by generous landscaped front yards with houses set well back from the streets like Dawson Avenue.

[33] Mr. Ramsay further focused his testimony upon the amendments sought by the Applicant/Appellant. Through his witness statement (Exhibit 7, Appendix 4), Mr. Ramsay shared a variety of statistical data tables to show by considering front yard setbacks, rear yard setbacks, minimum corner lot area, minimum end lot area, minimum interior lot area, minimum side yards, size of lot versus built up area, the side yard setback, sample lot depths and zoning regulation analysis. Whereas most of these tables (Exhibit 7, Appendix 4) when considered individually showed that the proposed development parameters were in the lower end of preferable range when considered one at a time for the properties enumerated by Mr. Ramsay. However, Mr. Ramsay admitted that he has not done a balanced view of each of the properties to compare for a like for like total proposal comparison.

[34] During cross-examination, Mr. Ramsay further admitted that true analysis would have required a balanced, albeit very complex and very difficult exercise to carry out when comparing the proposed development as a whole against other alike developments enumerated in his statistical tables. Under cross-examination, Mr. Ramsay further acknowledged that his analysis in Table 8 (Exhibit 7, pages 50 and 51) also did not account for permitted other parameters that could have been allowed for.

[35] The Tribunal finds that Mr. Ramsay's analysis, which was heavily based on his statistical presentation, is fundamentally flawed as any development requires a balanced review of all parameters of development to establish if it represents good planning or not and if its conformity is in a form complimentary to the planning documents when considered as a whole. Mr. Ramsay has not shown that the proposal does not comply with density parameters or intensification policies whereas Ms. Sinclair has positively established the same.

[36] The matter of Issue 9 was addressed by Mr. Ramsay as a significant concern. The issue is identified as follows;

Issue 9: Does the proposed development create adverse impacts related to privacy and overlook?

[37] Mr. Ramsay testified that there will be adverse impacts upon people using Dawson Avenue. He stated that with the proposed front balconies and reduced front yard setbacks versus properties of many nearby neighbours, people would feel uncomfortable due to overlook and feel their privacy being impacted.

[38] Ms. Sinclair testified that the newer urban designs encourage livening up the streets where the dwellings and other uses are encouraged to provide presence to the street. Ms. Sinclair further added that such presence leads to a sense of neighbourhood and safety.

[39] During questioning, Mr. Ramsay admitted that he was not qualified to provide assessment regarding possible psychological impacts and the degree to such would come into play. Mr. Ramsay, when asked how a private property could impact a public road in terms of overlook, he admitted that he can not qualify that. Mr. Ramsay during questioning also confirmed that there are no sidewalks on either side of Dawson Avenue fronting the subject property or the properties of adjacent neighbours.

[40] The Tribunal having reviewed the testimonies of Ms. Sinclair and Mr. Ramsay finds that there would be no negative impacts *vis-a-vis* privacy and overlook.

[41] Ms. Sinclair as an urban planner opined that the front of the townhomes with recessed garages and road facing balconies with setback compliant front yards, represents conformity with the neighbourhood in terms of use, scale, form and character. Ms. Sinclair considered urban design aspects in the UHOP through the lens of applicable policies in sections within Policy B.3.3 as well as in Policies E.1 through E.3. She highlighted considerations for medium density development,

landscaping, the townhomes with eyes on the street and there being no planned front surface parking lots proposed.

[42] Issue number 5 further demands consideration with respect to the Old Towne Secondary Plan (“the “OTSP”) among other in the UHOP. This issue is as follows;

Issue 5: Is the proposed Zoning By-law Amendment in conformity with the Old Town Secondary Plan of the Urban Hamilton Official Plan (Volume 2)? In particular, but not limited to the following policy section:

- Policy B.7.2.1.3 (General Policies); and
- Policy B.7.2.2.3 (Medium Density Residential 3 Designation).

Issue 7: Does the proposed development provide for an appropriate streetscape?

[43] Ms. Sinclair opined that the proposed development would help maintain the viability of the Stoney Creek by creating more efficient and greater use of an underutilized site. Mr. Ramsay contested that the proposal takes away an institutional designated site and depletes this particular use with respect to the secondary plan preferred uses. Ms. Sinclair stated that the site has stayed vacant and unused even though in the past the building was used to host some community activities as arranged with the private institutional owner. Ms. Sinclair opined that in regard to policy 7.2.2.3 in OTSP, there is compliant front yards for landscaping, parking is in garages with driveways and the density is within the maximum permitted of 99 units per residential hectare. Ms. Sinclair concluded that the proposed development conforms with the OTSP as contained in the UHOP.

[44] An issue raised by the City related to adequate provisioning of amenity area in the proposed development. This issue was defined as follows;

Issue 8: Does the proposed development provide for an appropriate amount of amenity area?

[45] Mr. Ramsay opined that a proposed swale to be used for stormwater routing and discharge in the rear yards will cause a reduction in the possible amenity area

provisioned for each dwelling. Ms. Sinclair stated that such areas are not excluded from the establishment or determination of amenity area conformance. Mr. Ramsay during cross-examination concurred that indeed such areas are not excluded from amenity area designation. As a result, the assertion by Ms. Sinclair that the proposal provides for required amenity areas was affirmed.

[46] As such the Tribunal finds that the Applicant/Appellant has positively and suitably addressed the issue and that the proposal provides for appropriate amenity area for each of the dwelling units.

[47] Having considered the evidence of all the UHOP and ZBL centric issues, the Tribunal finds that the Applicant/Appellant has positively addressed all of the City's issues and further provided confirmation of the proposed development's conformity with the UHOP. The Tribunal thus based on the analysis above and the totality of evidence before it finds that the proposed development conforms with the UHOP.

Possible Future Consents

[48] The matter of possible future consents that may be needed to implement the development, was raised by the City as Issue 12 as follows;

Issue 11: Does the proposed development, which is to be implemented through future consent applications, have sufficient regard for Section 51(24) of the Planning Act?

[49] The Applicant/Appellant submitted that s. 51(24) matter is not before the Tribunal in these appeals. Mr. Ramsay submitted that since the OPA and ZBA would set up a framework for such future activities that sufficient regard needs to be had for s. 51(24) provisions.

[50] The Tribunal noting that no consent application is before it and neither are there any consents defined or delimited in the appeal before this panel, the matters of

s. 51(24) are more appropriately addressed as and when such applications are files by the Applicant/Appellant for consideration and approvals by the City.

Good Land Use Planning

[51] This aspect was raised by the City as the following issue;

Issue 13: Does the proposed development represent good land use planning and is it in the public interest?

[52] Ms. Sinclair opined that the Applicant/Appellant has duly considered the provincial interest, the PPS, and the Growth Plan and shown conformity with the UHOP. She added that the proposed development is welcome intensification which takes an unused non-descript windowless building and updates the site with modern urban design based development that adds to a mix of housing choices. She stated that the public interest is served as the proposed development will add to housing supply while making efficient use of existing municipal services.

[53] Mr. Ramsay countered that it is overdevelopment that does not fit with immediate context or the neighbourhood.

[54] The Tribunal having determined that the Applicant/Appellant proposal has positively and satisfactorily addressed issues 1 through issue 12 finds that the opinions expressed, and assertions made by Ms. Sinclair are appropriate. Thus, in consideration of all the evidence before it the Tribunal concludes that the proposed development represents good land use planning and is in the public interest.

[55] In conclusion regarding the requested OPA, the Tribunal determines that the requested OPA has regard for the provincial interest, is consistent with the PPS, conforms with the Growth Plan and represents good planning and is in the public interest.

[56] In conclusion regarding the requested ZBA, the Tribunal determines that the ZBA has regard for the provincial interest, is consistent with the PPS, conforms with the Growth Plan and the UHOP, and represents an appropriate use of the subject property and represents good land use planning.

ORDER

[57] The Tribunal allows the appeal in part and the Urban Hamilton Official Plan of the City of Hamilton is amended as set out in attached Schedule “A” to this Order.

[58] The Tribunal allows the appeal in part, and Zoning By-law No. 3692-92 (Stoney Creek) of the City of Hamilton is amended as set out in attached Schedule “B” to this Order.

[59] The site plan application submitted to the City of Hamilton for approval shall be in general conformity with the conceptual site plan and elevation drawings which are attached as Schedules “C” and “D” to this Order.

“Jatinder Bhullar”

JATINDER BHULLAR
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

SCHEDULE A

DRAFT Urban Hamilton Official Plan Amendment No. XX

The following text, together with Appendix “A” – Volume 2, Map B.7.2.1 – Old Town Secondary Plan – Land Use Plan attached hereto, constitutes Official Plan Amendment No. xxx to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose and effect of this Amendment is to redesignate lands and establish a Site Specific Policy within the Old Town Secondary Plan to permit the development of five street townhouses.

2.0 Location:

The lands affected by this Amendment are known municipally as 19 Dawson Ave, in the former City of Stoney Creek.

3.0 Basis:

The basis for permitting this Amendment is as follows:

- The proposed development supports the residential intensification policies of the Urban Hamilton Official Plan and assists in the creation of an active and vibrant pedestrian realm;
- The proposed development is compatible with the existing and planned development in the area; and,
- The Amendment is consistent with the Provincial Policy Statement, 2020 and conforms to the Growth Plan for the Greater Golden Horseshoe, 2020, as Amended.

4.0 Actual Changes:

4.1 Volume 2 – Secondary Plans

Text

4.1.1 Chapter B.7 – Stoney Creek Secondary Plans – Section B.7.2 – Old Town Secondary Plan

- a. That Volume 2, Chapter B.7 – Stoney Creek Secondary Plans, Section B.7.2 – Old Town Secondary Plan be amended by adding a new Site Specific Policy, as follows:

“Site Specific Policy – Area “X”

B.7.2.8.X For the lands located at 19 Dawson Avenue, Stoney Creek, designated Medium Density Residential 3, and identified as Site Specific Policy – Area “X” on Map B.7.2-1 – Old Town Secondary Plan – Land Use Plan, the following policies shall apply:

- a) Notwithstanding Policy E.3.5.2 and E.3.5.3 of Volume 1 and Policy B.7.2.2.3 b) of Volume 2, only street townhouses shall be permitted;
- b) Notwithstanding Policy E.3.5.7 of Volume 1, and Policy B.7.2.2.3 a) of Volume 2, the density range shall be from 30 to 73 units per net residential hectare; and,
- c) Notwithstanding Policy E.3.5.8 of Volume 1, building height shall not exceed two and a half storeys.”

Maps

4.2.2 Map

- a. That Volume 2, Map B.7.2-1 – Old Town Secondary Plan – Land Use Plan be amended by:
- i. Redesignating the subject lands from “Institutional” to “Medium Density Residential 3”; and,
 - ii. identifying the subject lands as Site Specific Policy – Area “X” as shown on Schedule “A” to this Amendment.

5.0 Implementation:

An implementing Zoning By-Law Amendment and Site Plan will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule “1” to By-law No. _____ passed on the _____ of _____, 2022

SCHEDULE B**CITY OF HAMILTON****BY-LAW NO. _____****To Amend Zoning By-law No. 3692-92 (Stoney Creek)**

Respecting Lands located at 19 Dawson Avenue, Stoney Creek

WHEREAS the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Schedule C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Stoney Creek” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the *City of Hamilton Act, 1999* provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in full force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 20- 195 of the Planning Committee, at its meeting held on the 3rd day of November 2020, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided; and,

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan upon the approval of Official Plan Amendment No.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 5 of Schedule “A”, appended to and forming part of Zoning By-law No. 3692-92 (Stoney Creek), is amended by changing the zoning from Small Scale Institutional “IS” Zone to Multiple Residential “RM2-46” Zone, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Subsection 6.9.6 Special Exemptions of Section 6.9, Multiple Residential “RM2” Zone, of Zoning By-law No. 3692-92 (Stoney Creek) be amended by adding Special Exemption “RM2-46”, as follows:

“RM2-46” 19 Dawson Avenue, Schedule “A” Map No. 5

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), and (e) of Subsection 6.9.3 of Section 6.9, Multiple Residential “RM2” Zone, on those lands zoned “RM2-46” by this By-law, the following shall apply:

- (a) Minimum Lot Area:
- | | |
|---------------|-------------------|
| Interior Unit | 123 square metres |
| End Unit | 150 square metres |
| Corner Unit | 158 square metres |
- (b) Minimum Lot Frontage:
- | | |
|---------------|------------|
| Interior Unit | 6.0 metres |
| End Unit | 8.0 metres |
| Corner Unit | 8.9 metres |
- (c) Minimum Front Yard: 3.0 metres to the main wall of building or a porch and 6.0 metres to an attached garage.
- (d) Minimum Side Yard:
- | | |
|-------------|-------------|
| End Unit | 2.0 metres |
| Corner Unit | 2.28 metres |
- (e) Minimum Rear Yard: 5.33 metres
- (h) Maximum Building Height 11 metres and 2½ storeys

For the purposes of this by-law, “Storey-One-Half” means the portion of the building situated wholly or in part within the roof and having its floor level not less than 1.2 metres below the line where the roof and outer wall meet and in which there is sufficient space to provide distance between finished floor and finished ceiling of at least 2 metres over a floor area equal to at least 50 percent of the area of the floor next below. The total

dormer wall length shall not exceed 55% of the total wall length at roof along which the dormers are located.

Notwithstanding Section 4.13.1, a minimum setback of 1.3 metres from the hypotenuse of the daylight triangle shall be permitted.

Notwithstanding Section 4.19.1, balconies shall not be permitted within the rear yard of the townhouse development.

3. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Multiple Residential "RM2" Zone provisions, subject to the special requirements referred to in Section 2 of this By-law.
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this day of , 2022.



This is Schedule "A" to By-law No. 20-

Passed the day of, 2020

Mayor

Clerk

Schedule "A"

Map forming Part of
By-law No. 20-__

to Amend By-law No. 3692-92

Subject Property

19 Dawson Avenue, Stoney Creek
Change in zoning from the Small Scale Institutional
"IS" Zone to the Multiple Residential "RM2-46" Zone,
Modified

Scale: NT: S	File Name/Number: ZAC-20-012/UHOPA-20-007
Date: October 1, 2020	Planner/Technician: SS/NB

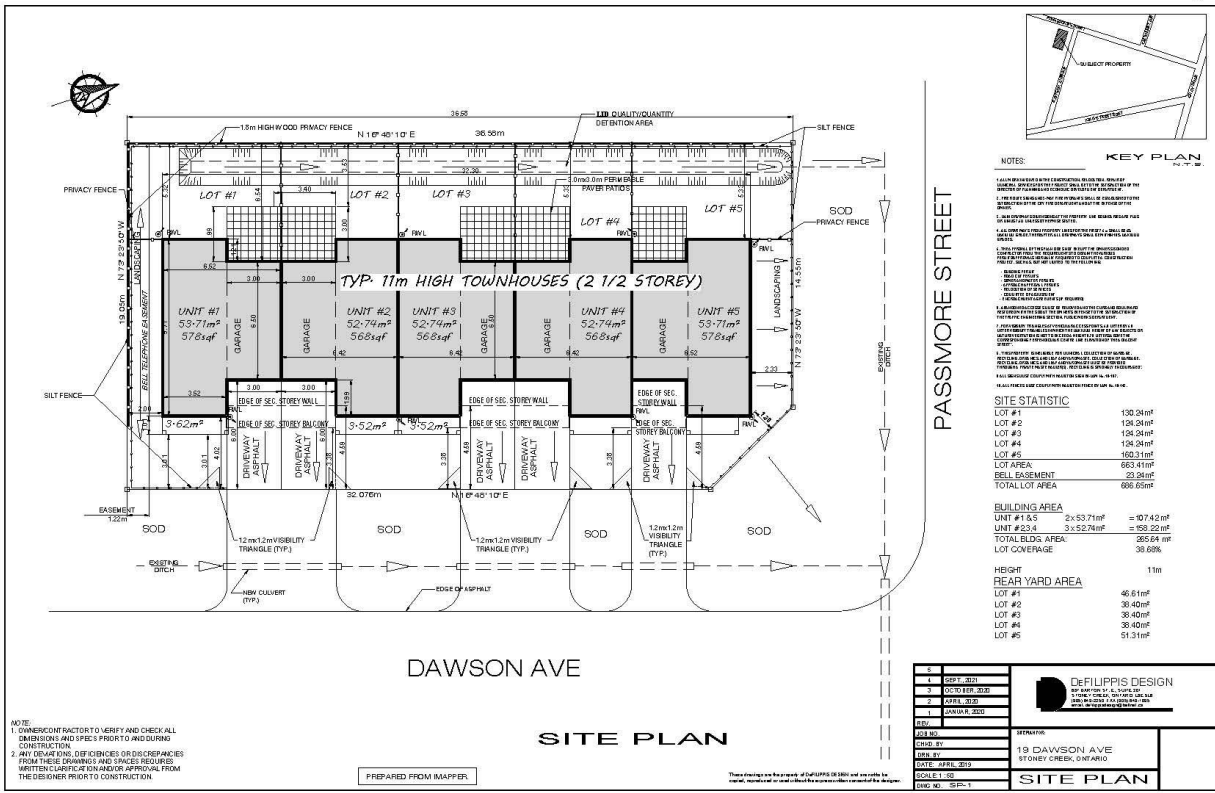


PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SCHEDULE C

Schedule "C"

16



NOTE:
1. OWNER/CLIENT TO VERIFY AND CHECK ALL DIMENSIONS AND SPECS PRIOR TO AND DURING CONSTRUCTION.
2. ANY OMISSIONS, DEFICIENCIES OR DISCREPANCIES FROM THESE DRAWINGS AND VANCES REQUIRED WRITTEN CLARIFICATION AND/OR APPROVAL FROM THE DESIGNER PRIOR TO CONSTRUCTION.

These drawings are the property of DeFilippis Design and are to be used for the project only and not to be reproduced or used for any other project without the written consent of the designer.

SCHEDULE D



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 16, 2021

CASE NO(S): PL180302

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Knightstone Capital Management II Inc.
Subject:	Application to amend Zoning By-law No. 05-200 - Refusal or neglect of City of Hamilton to make a decision
Existing Zoning:	Downtown Multiple Residential (TOC1, H63)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the institutional student resident development
Property Address/Description:	1190 Main Street West et al
Municipality:	City of Hamilton
Municipality File No.:	ZAC-17-065
OLT Case No.:	PL180302
OLT File No.:	PL180302
OLT Case Name:	Knightstone Capital Management II Inc. v. Hamilton

Heard: December 9, 2020 by telephone conference call

APPEARANCES:

Parties

Counsel

Knightstone Capital Management II Inc.	David Bronskill
City of Hamilton	Patrick MacDonald
Concerned Residents of Westdale	Nancy Smith

DECISION DELIVERED BY G.C.P. BISHOP AND ORDER OF THE TRIBUNAL

[1] On consent of the parties, the Tribunal scheduled this Telephone Conference Call (“TCC”) to consider a settlement on the matter. On the morning of this call, the Tribunal was informed, by email, that there had been an issue arising at the last minute. The Tribunal convened this hearing event to listen to the parties and give direction on moving this matter forward.

[2] All parties expressed their desire to overcome this hurdle and requested a further TCC to present a settlement or to schedule a hearing date to deal with the remaining issue.

[3] This Member gave direction to the parties that he would stay seized of the matter only if a settlement is reached and the parties were directed to supply the case coordinator with the settlement and an Affidavit from the planner of their choosing so this matter can be completed in writing. If the negotiations failed, the case coordinator would be contacted to schedule a further TCC to arrange scheduling for a hearing on the merits. In this case this Member will not be seized of the next event nor the hearing on the merits.

[4] From the conversation, the Member expected a quick resolution of the issue and expected a settlement in short order. This was not the case and with the passing of approximately eleven (11) months from the date of this TCC the Tribunal Member has now been notified that the issue has been resolved.

[5] The parties are now ready to proceed with a settlement hearing. Under the circumstances, the Tribunal, on its own initiative, has converted this settlement event from a written hearing to a settlement hearing, by TCC, to commence on **Wednesday, December 15, 2021** at **9 a.m.** for **one day**.

[6] Individual(s) are directed to **call 416-212-8012 or Toll Free 1-866-633-0848** on the assigned date at the correct time. When prompted, **enter the code 4779874#** to be connected to the call. It is the responsibility of the person(s) participating in the call to ensure that they are properly connected to the call and at the correct time. Questions

prior to the call may be directed to the Tribunal's Case Coordinator having carriage of this case.

[7] The Member hereby rescinds the direction given to the parties at the TCC on December 9, 2020 and directs the settlement event to be completed by way of TCC as stated above.

[8] The Tribunal also directs the parties to supply other parties and the Tribunal a copy of the settlement, the necessary Affidavit from the planner(s) of their choosing, along with a copy of the proposed Zoning By-law Amendment and supporting materials by end of day on **Wednesday, December 8, 2021**, to allow the assigned Member some time to review the settlement prior to the settlement hearing.

[9] No further notice is required.

"G.C.P. Bishop"

G.C.P. BISHOP
VICE-CHAIR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 20, 2022

CASE NO(S):

PL200302

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	T. Valeri Construction Ltd.
Subject:	Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment
Existing Designation:	"Neighbourhoods" (UHOP)
Proposed Designated:	Site-Specific-to be determined
Purpose:	To permit the demolition of the current existing single detached dwelling and construct a 10 storey multiple dwelling, consisting of approximately 244 dwelling units and 250 vehicular parking spaces
Property Address:	73-89 Stone Church Road West and 1029 West 5 th Street
Municipality:	City of Hamilton
Approval Authority File No.:	UHOPA-019-08
OLT Case No.:	PL200302
OLT File No.:	PL200302
OLT Case Name:	T. Valeri Construction Ltd. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	T. Valeri Construction Ltd.
Subject:	Application to amend Zoning By-law No. 6593 - Neglect of the City of Hamilton to make a decision "DE- S-ITOO" and "AA"
Existing Zoning:	"DE- S-ITOO" and "AA"
Proposed Zoning:	Site-Specific-to be determined
Purpose:	To permit the demolition of the current existing single detached dwelling and construct a 10 storey multiple dwelling, consisting of approximately 244 dwelling units and 250 vehicular parking spaces
Property Address:	73-89 Stone Church Road West and 1029 West 5 th Street
Municipality:	City of Hamilton
Municipality File No.:	ZAC-19-029

OLT Case No.: PL200302
OLT File No.: PL200303

Heard: October 18, 2021 by video hearing

APPEARANCES:

Parties

Counsel

T. Valeri Construction Ltd.
("Applicant")

Russell Cheeseman
Stephanie Fleming

City of Hamilton ("City")

Patrick MacDonald

DECISION DELIVERED BY DAVID L. LANTHIER AND A. CORNACCHIA ORDER OF THE TRIBUNAL

INTRODUCTION

[1] These appeals before the Tribunal arise from the City's failure to make decisions within the prescribed timelines regarding the following three Applications:

- (a) an Application to amend the Urban Hamilton Official Plan ("OPA"),
- (b) an Application for an amendment to the City of Hamilton Zoning By-law 6593 ("ZBLA") and
- (c) an Application for Site Plan Approval. ("SPA").

[2] The Applications were originally submitted by the Applicant to facilitate the development of a ten-storey rental apartment complex at 73-89 Stone Church Road West and 1029 West 5th Street, in Hamilton ("Subject Property"). As explained herein, the Applications have undergone a number of revisions and iterations to the final form now before the Tribunal in this hearing.

HEARING

[3] These appeals were previously the subject of case management and have been governed by a Procedural Order and Issues List. Two Participants were previously granted status. Only Mr. Conrad Walczak filed the required Participant Statement in accordance with the Procedural Order, which has been marked as Exhibit 9.

[4] As evidence in the Hearing the Tribunal received, in electronic format, 19 exhibits, which were collated and identified sequentially during the hearing. The List of electronic documents filed as Exhibits to this proceeding is appended as **Appendix “1”** to this Decision and Order.

[5] The Applicant called Mr. Matthew Johnston as its planning witness and the City called Mr. James Van Rooi, a Planner with the City, as its planning witness. Both Mr. Johnston and Mr. Van Rooi were qualified by the Tribunal to provide expert evidence in the area of Land Use Planning, without objection, and their Acknowledgements of Expert's Duty were filed in the Exhibits.

[6] The other witness appearing at the hearing was Mr. Wayne Harrison, who was called by the Applicant and was qualified by the Tribunal to provide evidence in the field of Architecture and Urban Design. Mr. Harrison's Acknowledgement of Expert's Duty was also filed in the Record.

[7] The City and the Applicant were able to resolve their differences with respect to transportation planning and did not call any witnesses relating to this matter.

PROPOSED DEVELOPMENT AND APPLICATIONS

[8] The development proposal for the Subject Property described below evolved during discussions with the City and the public consultation process. Initially, the proposal was for a ten-storey apartment complex which was adjusted significantly to respond to various concerns.

[9] The development proposal now before the Tribunal (“Proposed Development”) is a nine-storey residential, rental apartment building containing 216 units (1, 2 and 3-bedroom apartments) with 221 parking spaces, 167 of which will be in an underground parking garage, with the remainder located as surface parking. The proposed maximum residential density for the structure will be 309 units per hectare (“ha”).

[10] The Proposed Development will be an inverted U-shaped building with the interior courtyard used for parking and loading and a driveway opening to the south. The north portion of the building fronting onto Stone Church Road West, will be articulated in a manner intended to define a number of three-storey townhouse-like units which step down from the main nine (9) storey structure to blend with the streetscape of the facing three-storey townhouse units on the other side of Stone Church Road. A road widening is proposed along Stone Church Road West, which will extend around the south east corner of the intersection and continue along West 5th Street. Ground floor terraces for units at street level are shown on the Final Concept Plan and there are three terraces at the fourth-floor level, two of which will serve as private terrace areas and one of which is an amenity terrace.

[11] The west wing of the U-shaped building fronts onto West 5th Street and has ground floor units which face the street side and, across the street, the rear yards of the two-storey townhouse units in the subdivision located on the west side of West 5th Street. As indicated the road widening of West 5th Street will also extend along the front of the building here. There are also ground floor terraces located at street level.

[12] The ends of the west and east wings, and the opening of the U-shaped building form and inner court, face towards the south and the retirement building and land immediately adjacent to, and south of, the Subject Property (“Retirement Home Property”). The courtyard parking and loading area are accessed from the interior entrance driveway accessible from West 5th Street and running along the south portion of the property. There is additional parking proposed along this south portion of the lands between the south façade of the building and the south boundary line. The

Concept Plan identifies a 6.52 metres (“m”) wide separation between the driveway and the boundary to the Retirement Home Property, on the south side of the Subject Property. There is a separation distance of 1.71 m between the property line and the southern edge of the row of parking.

[13] The façade of the east wing faces the St. Timothy’s Anglican Church property (“the Church Property”). A large portion of the Church Property adjacent to the Subject Property contains a surface parking lot. The Church is located near the boundary with the Subject Property in the general area of the southern-most portion of the east wing. The setbacks of the east façade of the Proposed Development from the east boundary vary, range between 6.75 m at the widest, and 3.79 m at the narrowest.

[14] The Final Concept Plan and Final Architectural Elevations of the Proposed Development are attached as Appendices 4 and 5 respectively.

[15] There is one underground parking level accessible from a ramp entering from the south driveway. The Final Concept Plan indicates that the outer perimeter of the underground parking level is larger than, and extends beyond, the ground floor building envelope (and surface parking area in the south). On the east side the setback distance to the boundary line from the perimeter of the underground garage is accordingly minimal, reduced to 2.07 and 2.57 m, however this is not discernible above-ground.

[16] The three applications under Appeal before the Tribunal that will enable the Proposed Development have evolved through the City and public consultation process.

[17] The proposed OPA attached as **Appendix “2”** will create a Site-Specific Designation for the Proposed Development which will permit the proposed residential density of 309 units per hectare, rather than a maximum residential density of 200 units per hectare permitted for a high density residential complex under the OP.

[18] The proposed ZBLA is attached as **Appendix “3”**. Its purpose is to change the

zoning of the Subject Property from the Current Mixed Zoning to a site specific “DE-2” (Multiple Dwelling) District to permit the Proposed Development and permit modifications to height, front yard setback, interior side yard setback, flankage yard setback, rear yard setback, gross floor area, parking ratio, loading space size, required landscape area, and parking space size for the Proposed Development.

[19] The Proposed Conditions of SPA are attached as **Appendix “4**. With the agreement of counsel, at the conclusion of the hearing the request was made to the Tribunal to permit them additional time to continue discussions as to the final form of an additional condition to the Proposed Conditions relating to transportation and traffic, which had been resolved by the parties prior to the commencement of the hearing. That additional condition was subsequently received by the Tribunal, reviewed, and has been added to the Proposed Conditions of SPA in Appendix “4”.

THE SUBJECT PROPERTY

[20] The Subject Property is comprised of five different lots/parcels located on the south-east corner of Stone Church Road West and West 5th Street and has a total frontage of 80.4 m (West 5th Street), a depth of 88.2 m (south) and a lot area of approximately (0.788 ha). The lots at 73 and 77 Stone Church Road West and at 1029 West 5th Street all contain, or contained, single family dwellings, while the properties located at 83 and 89 Stone Church Road West, are vacant since the dwellings formerly located there were demolished.

[21] The Subject Property is designated as “Neighbourhoods” within the Urban Hamilton Official Plan (“UHOP”) and is also covered by an Area Specific Policy known as UH-5 within Volume 3 Chapter B of the UHOP, which exempts it from the minimum density requirements.

[22] The five lots comprising the Subject Property are zoned differently, and as follows under the City of Hamilton Zoning By-law No. 6593 (“ZBL”):

73 Stone Church Road West – “C” (Urban Protected Residential, Etc.) District, and “AA” (Agricultural) District;

77 Stone Church Road West – “C” (Urban Protected Residential, Etc.) District, and “AA” (Agricultural) District;

83 Stone Church Road West – “DE-2/S-1700” (Multiple Dwelling) District, Modified;

89 Stone Church Road West – “DE-2/S-1700” (Multiple Dwelling) District, Modified; and,

1029 West 5th Street – “AA” (Agricultural) District. (collectively “Current Mixed Zoning”)

[23] The 83 and 89 Stone Church Road West lots were the subject of a prior zoning by-law amendment in 2013, which envisioned a multiple unit development of stacked townhouses. This zoning, now applying to a portion of the Subject Property, as it has already been amended, permits as-of-right building height to eight storeys or 26.0 m. Multiple Dwelling units are permitted.

[24] With respect to services, the Subject Property has community facilities/ services including public transit, schools, public parks and active and passive recreational facilities within walking distance of the Proposed Development. The Parkland Spatial Analysis confirmed that approximately 70 ha of park and open space are within two kilometers of the Subject Property. There is no issue that municipal services and infrastructure are adequate to support the Proposed Development. The Subject Property has direct access to two Minor Arterial Roads and is 300 m away from a Major Arterial Road. All issues regarding road capacity have been resolved.

HIGHER ORDER PROVINCIAL POLICY – PPS, GROWTH PLAN AND *PLANNING ACT*

[25] In considering these Appeals, the Tribunal must determine whether the Proposed Development, as it will be permitted with the OPA and ZBLA:

- has regard for matters of provincial Interest – s. 2 of the *Planning Act* (“*Act*”);
- is consistent with the Provincial Policy Statement 2020 (“PPS”) pursuant to s. 3(5) of the *Act*, and
- conforms with any applicable Provincial Plans pursuant to s. 3(5) of the *Act*, and specifically *A Place to Grow, Growth Plan for the Greater Golden Horseshoe 2020* (“Growth Plan”).

[26] The Tribunal can, in a summary fashion, address the extent to which the Proposed Development addresses these higher order Provincial planning policies and matters contained in the *Act*, the PPS and the Growth Plan and make its findings as to consistency, conformity and regard for s. 2 of the *Act*.

[27] Both planning experts were in agreement that both the PPS and the Growth Plan support the intensification of the Subject Property and that some form of higher density development is appropriate. Both Mr. Johnston and Mr. Van Rooi reviewed the various policies of the PPS and the Growth Plan and concluded that the proposed planning instruments, as they would permit a higher density, multiple-unit apartment building, with varied forms of units, within the delineated built boundary, supported by infrastructure, and transit supportive, were consistent with the PPS and conform to the policies of the Growth Plan.

[28] Mr. Johnston further opined that the Proposed Development also had regard for matters of Provincial interest as provided for in s. 2 of the *Act* which is not challenged by the City.

[29] The Tribunal accepts this uncontroverted planning evidence in all respects and finds that the Proposed Development, as it would be permitted by the draft planning instruments, is consistent with the policies of the PPS and conforms to the policies of the Growth Plan. The Tribunal also finds that the Proposed Development has regard for those matters of Provincial interest set out in s. 2 of the *Act*, and in particular, the adequate provision of a full range of housing, including affordable housing in subparagraph (j) and the Subject Property's appropriate location for growth and development under subparagraph (p).

ISSUES

[30] As indicated, the higher-level policies are not substantially in dispute between the parties and there is no real dispute that intensification and development of the underutilized Subject Property is in order. The key issues are really associated with conformity with the UHOP, and primarily focus upon the level of intensification that should be permitted on the Subject Property and matters of compatibility with adjacent and nearby properties and land uses. The character of the neighbourhood and area context is a preliminary issue related to intensification and compatibility.

[31] The City takes the position that the Proposed Development represents excessive intensification of the Subject Property, does not conform with the UHOP policies that address intensification, compatibility and urban design, and asserts that there are adverse impacts arising from the design in relation to adjacent properties arising from the height, massing, setbacks and step-backs in the design. The Applicant's position is that the Subject Property is, due its neighbourhood and area context and the UHOP policies, appropriate as a site for higher intensification and that the final iteration of the Proposed Development represents good design in all respects and is compatible. The Applicant's position is that there are no such adverse impacts.

[32] As the evidence has been presented, and upon the submissions of the Parties, the key issues can accordingly be narrowed to the following three matters:

(a) **Neighbourhood and Area Context**

A preliminary issue must first be determined as it impacts the core issues of intensification and compatibility. The Applicant and the City take different approaches to defining and characterizing the neighbourhood and area: the City focuses upon the immediate neighbourhood and identifies the area as predominantly a low-rise residential area; the Applicant takes a broader approach to context, focusing on the varied and undeveloped nature of the surrounding area as a neighbourhood in transition.

(b) **Intensification**

The primary issue is the appropriate level of intensification of the Proposed Development for the Subject Property? The City takes the position that the Applicant's proposal is "simply going too far" for this particular property and that intensification is not intensification at any cost.

The Applicant contends that the Proposed Development is appropriate higher-density intensification of the Subject Property in a transitioning urban area of the City that provides for such higher density due to the location and character of the Subject Property and the applicable UHOP policies.

(c) **Compatibility**

The second issue is interrelated to the issue of intensification since the policies relating to intensification address compatibility. The Tribunal must determine whether the Proposed Development is compatible with adjacent properties and the character of the neighbourhood? The City's position is that the Proposed Development is without appropriate consideration of the character of the broader neighbourhood and the adjacent properties, is

incompatible and will create adverse impacts. With design concerns, insufficient set-back and massing issues, the Development will not properly relate to adjacent properties or to the street. The City's concerns extend to argued non-conformity with urban design policies in the UHOP.

The Applicant's position is that there are no such adverse impacts or matters of compatibility, which is demonstrated to a great extent by the noticeable absence of objection from any adjacent or nearby owner. The Applicant submits that the Proposed Development is compatible in every respect with adjacent properties from both an urban design and planning perspective and compatible with the broader nearby area in transition.

[33] There are additional issues relating to the Site Plan Appeal which are resolved as a result of the determination of the above contentious issues.

THE PLANNING AND URBAN DESIGN EVIDENCE GENERALLY

[34] While the testimony of both Mr. Johnston and Mr. Van Rooi was the same on certain planning matters, their evidence differed on other significant planning issues.

[35] The Tribunal generally preferred the evidence of Mr. Johnston. There were several inconsistencies in the evidence of Mr. Van Rooi and the Tribunal found that Mr. Van Rooi's interpretations of the UHOP often overlooked important provisions of the UHOP or sought to ascribe priorities or relevance to them that were not supportable on the facts. Mr. Van Rooi, in cross-examination, either changed or resiled from, his rather entrenched positions and expressed points of view on several fundamental issues addressed in the municipal planning reports and his witness statement. This included whether there was any unacceptable adverse impact from the Proposed Development to the neighbouring Church Property.

[36] Wayne Harrison was engaged by the Applicant and was the only architectural and urban design witness to be qualified and testify at the hearing. The City did not call

any architectural and urban design witnesses to testify at the hearing despite having an urban design department at the City. The Tribunal found Mr. Harrison's evidence to be well presented, well reasoned and was uncontroverted, without exception. The City's submissions and position on matters of urban design were ultimately unsupported by any expert evidence and did not challenge what was essentially Mr. Harrison's unchallenged urban design evidence.

ISSUE 1 - NEIGHBOURHOOD CONTEXT AND PLANNED CONTEXT

[37] The geographic reach and character of the neighbourhood and area surrounding the property is of significance in the determination of the issues before the Tribunal. So too is the planned context for the area.

[38] Mr. Van Rooi's evidence was focused on a very narrow view of the Neighbourhood. It was restricted to the Church Property and the Retirement Home Property which abut the Subject Property and the Three Storey Townhouse Units and Two Storey Townhouse Units which face the Subject Property across arterial roads. He characterizes the Neighbourhood as low rise residential. In contrast Mr. Johnston took a much broader perspective of the Neighbourhood. The overview of the broader area, including a review of the Upper James Urban Corridor, the Upper James Community Node, a number of developments, and the extent of the undeveloped and developable lands leads Mr. Johnston to define the broader area as a part of the City that is in transition.

[39] The evidence on the extent and character of the surrounding neighbourhood and area was presented in a somewhat piecemeal fashion in the hearing. In considering the totality of the evidence, following receipt of all of the evidence, the Tribunal has nevertheless been able to make determinations with respect to the context of the Proposed Development.

[40] The Tribunal generally preferred the planning evidence of Mr. Johnston on this issue.

[41] First, given the nature of the Applications and the Proposed Development, the area to be examined by the Tribunal in considering the issues is not a confined one as Mr. Van Rooi has suggested. As the Subject Property is located within this part of the City, the Tribunal is of the view that the broader area is certainly one in transition and an area where there is a lack of uniformity of built-form, uses, development type or neighbourhood character. There are many undeveloped lands, opportunities for infill, and land use designations that indicate that the Subject Property is one of many in an urban area of Hamilton that has already changed and is undergoing change that is anticipated and planned for. The relevant contextual study area to be considered in these Appeals is not, in the Tribunal's view, appropriately to be restricted to the immediacy of only the adjacent lands or within only 200 m.

[42] That being said, in the Tribunal's view, even the immediate area of the Subject Property is varied. While townhouse developments are located on both the north and west sides, of the two facing streets, even they differ in form. The townhouses on West 5th Street are two-storey rear-facing units, with high fenced-in rear amenity space, while those three-storey townhouses to the north of the Subject Property front onto Stone Church Road West or to interior streets. A retirement home, zoned institutional, is located to the south while a church, also zoned institutional, sits to the east. There is no uniformity of streets, lot and block patterning or sizes or frontages for the many properties and parcels of land shown in the evidence.

[43] The adjacent lands to the north, east, south and west of the Subject Property are designated "Neighbourhoods" in the UHOP. Their zoning in the ZBL is as follows:

- (a) The lands to the north, across from Stone Church Road West, are zoned "RT-20" (Townhouse-Maisonette) District and contain three storey townhouses with the front of the houses facing the street. ("Three Storey Townhouse Units"). The Three Storey Townhouse Units occupy approximately half the block.
- (b) The lands to the west, across the street from West 5th Street, are zoned

“RT-20” (Townhouse-Maisonette) District and contain two storey townhouses with backyards facing the street. (“Two Storey Townhouse Units”)

- (c) The Church Property immediately to the east is zoned Neighbourhood Institutional (I1) Zone and contain the Church building and the large parking area. The parking lot essentially covers the entire north half of the property on the eastern boundary of the Subject Property. The Church is set back at the end of the parking lot and is visible on the Concept Plan. The exact size of the Church Property was not provided in the documentary evidence but the Tribunal observes from the Street Tour Sketch (Exhibit 1, p. 1516) that it appears to be at least as large, and perhaps slightly larger than, the two western parts of the Subject Property, having an area thus of at least 4,850 m² or 0.485 ha. (Exhibit 1, p. 502 – 55 m x 88 m). Mr. Johnston testified that it was 1.35 acres in area, which, converted, would be 0.546 ha and thus consistent with the visual and documentary evidence. The Church, relative to the size of the Church Property, is relatively modest in size, having a footprint of approximately 813 m².
- (d) The adjacent Retirement Home Property to the south, on the east side of West 5th Street is zoned Neighbourhood Institutional (I1, 462) and contains a four-storey retirement home.

[44] A comparison chart and map were provided (Exhibit 1, Tab P) identifying surrounding buildings in the immediate area to the Subject Property and their heights. Essentially the buildings in the Townhouse subdivisions to the north, northwest, and west of the Proposed Development were identified, as was the four-storey building on the Retirement Home Property to the south. The Church on the Church Property to the east was also identified, as well as a few one and two storey buildings located on the south side of Stone Church Road West, to the east of the Church. The remainder of the

lands to the east, and along the south of Stone Church Road West to the corner of Stone Church Road and Upper James Street, are comprised of the Barton Stone United Church and Cemetery. Visual exhibits (Exhibit 1, Tab O) of this immediate area context was also provided

[45] Farther afield, the evidence indicates that William Connell Park, a sizeable area of recreational lands is located south and to the west of the Subject Property, within the sizeable tract of land identified below, with the entrance located off of West 5th Street a short distance from the Subject Property.

[46] Other residential and vacant lands designated for residential development appear to be located to the south of the Retirement Home Property.

[47] To the north, and east of the Townhouse development, an adjacent car dealership occupies the remainder of the block at the corner of Stone Church Road West. The car dealership occupies a large expanse of land at the corner and is used for the outside storage of cars and low rise commercial automotive uses. The side yards of the Three Storey Townhouse Units face the Proposed Development with a significant green space buffer area to the street. The Church Property is also faced by the front yards of a different row of Three Storey Townhouse Units buffered from the street by a private drive and green space.

[48] With respect to the broader area, of the whole of the large tract of lands to the west of the Subject Property (the "Tract") shown in Exhibit 1, page 1515, bounded by Stone Church Road West to the north, West 5th Street to the east, Rymal Road West to the south, and Garth Street to the west, a good portion of it remains largely undeveloped at present, containing a variety of uses and built forms. The residential Two-Storey Townhouse Units identified above, and some additional residential development, are located in the northeast corner of the Tract and along Stone Church Road.

[49] William Connell Park, identified as 20.0 ha in size, forms a large part of this

Tract. There are some larger residential lots with detached homes otherwise along the east side of the Tract fronting West 5th Street, and likewise along a portion of the south part of the Tract, fronting the north boundary of Rymal Road West. There appears to be a small subdivision located off Rymal Road West in the southeastern portion of the Tract and a larger subdivision located in the southwestern quadrant of the Tract. The western, northwestern and interior portions of the Tract are largely undeveloped with some intermittent residential development.

[50] The Tribunal's attention was drawn to a residential development located cater corner to the southeast corner of this Tract, municipally known as 445 Rymal Road West ("445 Rymal"). The location of 445 Rymal was identified on page 1515 of the Joint Document Book, and visible in photos 2 and 3, pages 1517 and 1518. Two Google Earth photos of the building at 445 Rymal, Exhibit 10 and 11, were also introduced in evidence. This ten (10)-storey residential development at 445 Rymal, on the southwest corner of the intersection of Rymal Road West, and Garth Street, was comparatively addressed by each of the three witnesses and is dealt with in the evidence below.

[51] In addition to the various townhouse developments completed on the portions of the nearby area shown in the documentary evidence, the Tribunal heard also that an eight (8)-storey mixed use building and four multiple dwellings have been approved nearby to the east, at the corner of Upper James Street and Stone Church Road East.

[52] With respect to the planning policy context of the immediate and surrounding areas:

- (a) The Subject Property is within the Urban Boundary of the UHOP;
- (b) The Subject Property is identified as a part of the Mewburn Neighbourhood Plan area located in the northwestern corner of the identified study area for that Neighbourhood Plan (Page 1466, Exhibit 1). The Mewburn Neighbourhood Plan is bounded by Stone Church Road to

the North, West 5th Street to the West, Upper James Street to the east and Rymal Road West to the south. It is not a plan under the *Act* but is nevertheless updated for development uses and speaks to various objectives for development in this Neighbourhood.

- (c) In the UHOP, the Upper James Street corridor, located about 300 meters to the east of the Subject Property, (and partly within the Mewburn Neighbourhood Plan) is designated: (1) as a Primary Corridor; (2) a Major Arterial Road; (3) as commercial and mixed uses in the UHOP schedules.
- (d) The same defined area of the Mewburn Neighbourhood Plan is located within the “UH-5 Policy Area” which provides that this area is not subject to minimum net residential density requirements.
- (e) That portion of the Upper James Street corridor to the east of the Subject Property is also identified as a “Community Node” on Schedule E of the UHOP.
- (f) Both Stone Church Road West and West 5th Street are designated as Minor Arterial Roads in the UHOP.

[53] On the whole of the evidence, in first considering the contextual framework for the location of the Subject Property, the Tribunal is inclined to agree with Mr. Johnston’s opinion that the area surrounding the Subject Property is an area in transition and is in the process of intensifying from low-rise, low-density built forms to additionally located developments with higher densities. The development at 445 Rymal, the development approved for the corner of Upper James Street and Stone Church Road East, the large inventory of lands available for infill in the years ahead, including those vacant lands on the same side of West 5th Street, establish, for the Tribunal, that this is an area that is undergoing, and will undergo change.

[54] Mr. Van Rooi tried to distinguish the proposed and approved eight (8)-

storey/multiple dwelling Stone Church Corner Development from the Proposed Development since, in his view, it was within a different planning context, located on the Upper James Urban Corridor. The Tribunal prefers Mr. Johnston's approach on this subject and accepts that despite its location within the Corridor it is nevertheless only 315 m away from the Proposed Development and represents part of the existing neighbourhood context. As the Subject Property is in close proximity to the Corridor, and such proximity is identified as a relevant consideration in the UHOP in assessing its viability for higher intensification, the Tribunal considers that this approved Corridor development is relevant. This nearby development represents significant intensification for the neighbourhood generally and in the immediate neighbourhood specifically and does represent the transitional nature of the Subject Property's area context.

[55] Similarly, Mr. Van Rooi sought to distinguish the 445 Rymal Development due to its distance from the Proposed Development. It is the Tribunal's view that this development also cannot be ignored as it within the broader area in transition, and itself represents an example of that transition as it developed a large underutilized block of lands on a major arterial road. Spatially, despite its distance from the Subject Property, the Tribunal finds that 45 Rymal is very much a part of the broader area surrounding the Subject Property in a state of transition and evolution as low rise dwellings and vacant lands evolve to a more dense residential built form such as multiple dwellings or townhouses. Excluding 445 Rymal from consideration merely by its distance of approximately 1600 m from the Subject Property, when it shares characteristics of the area, is unreasonable.

[56] Upon the whole of the evidence, the Tribunal is unable to accept Mr. Van Rooi's characterization of the area, or the City's submission, that the surrounding area is one made up only of ground based housing, low in form, with singles and town houses. While indeed such subdivisions and lots containing single dwellings and town houses do clearly exist within the area, and although there are two townhouse subdivisions to the north and west, the evidence does not support the uniform low rise characterization suggested by the City or the suggestion that a nine-storey multi-unit building such as

the Proposed Development would represent the type of anomaly suggested by Mr. Van Rooi.

[57] The Tribunal noted that Mr. Van Rooi did agree, when questioned during cross-examination, that the area is indeed an area in transition. Mr. Van Rooi confirmed that 445 Rymal represented an appropriate *form* of transition, but too far afield from the Subject Property to be considered contextually.

[58] In summary based on the planning evidence and information presented, the Tribunal finds that the neighbourhood at large is that identified by Mr. Johnston in his evidence, and is one of mixed uses and mixed densities, with higher density residential development occurring throughout the area, and in transition as its residential density increases through site intensification.

ISSUE 2 - INTENSIFICATION

[59] With respect to the intensification of development on the Subject Property, the Tribunal endorses the basic principle often advanced, as argued by the City in this case, that intensification of a site, supported by Provincial policy, nevertheless cannot occur to the detriment of, and without conformity to, local level planning policies relating to intensification, compatibility of development and urban design. The Tribunal thus must focus on these core policies and issues.

UHOP Policies on Growth and Intensification

[60] The Subject Property is designated as Neighbourhoods in the UHOP. In Hamilton, Neighbourhoods are generally regarded as stable areas with each neighbourhood having a unique scale and character (section 2.6.7). While Neighbourhoods are to be regarded as stable, they are not static and it is noteworthy that the UHOP expressly provides that Neighbourhoods are expected to evolve to accommodate 40 percent of the City's growth (Section B2.4.1.3).

[61] The goal of the UHOP is to promote and support intensification of an appropriate scale in appropriate locations within neighbourhoods. (Section 3.1.5). Residential intensification within Neighbourhoods is to enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 and other applicable policies of the UHOP (Section 3.2.4).

[62] The Tribunal would agree with Mr. Johnston's observation that the UHOP does not identify specific appropriate areas or locations for intensification within the urban area but instead provides guidance as to the appropriate locations for high density residential development based upon the characteristics of each site and its context.

[63] Section 3.6 provides that high density residential uses are to be located within safe and convenient walking distance of existing or planned community facilities and services including public transit, schools and recreational facilities. As well, proximity to the Downtown Urban Growth Centre or Community Nodes "shall be considered desirable for high density residential uses."

[64] Section 3.6.6 of the OP identifies the quantitative level of intensification that is appropriate for a high-density residential area. It states the following:

3.6.6 In high density residential areas, the permitted net residential densities, identified on Appendix G – Boundaries Map shall be:

- a) greater than 100 units per hectare and not greater than 500 units per hectare in Central Hamilton; and,
- b) greater than 100 units per hectare and not greater than 200 units per hectare in all other Neighbourhoods designation areas.
- c) Notwithstanding the maximum density requirement in Policy E.3.6.6 b), for smaller sites fronting on arterial roads, an increase in density may be without an amendment to this Plan, provided the policies of this Plan are met. (OPA 109)

[65] The OPA is required due to the maximum net residential density of 200 set out in

s. 3.6.6 of the UHOP.

[66] The UHOP then, in s. 3.6.7 sets out the qualitative criteria to be evaluated for development within the high density residential category which includes the following: direct access to a collector or major or minor arterial road; that high profile multiple dwellings shall not generally be permitted immediately adjacent to low profile residential uses, generally requiring that there be a separation distance in the form of a suitable intervening land use such as a medium density residential use, or were such separation cannot be achieved, the use of transitional features such effective screening and/or design features in the design of the high density development to mitigate adverse impact on adjacent low profile residential uses; adequate landscaping or buffering; and compatibility with existing and future uses in the surrounding area in terms of heights, massing and arrangement of buildings and structures.

[67] The residential intensification tests in Section B.2.4 of the UHOP require a balanced evaluation of the enumerated criteria set out therein such as: the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built-form; contributes to maintaining and achieving a range of dwelling types and tenures; and the compatible integration of the development with the surrounding area in terms of use, scale, form, and character.

[68] The Tribunal must also evaluate: compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic and other nuisance effects; the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings; transitions in height and density to adjacent residential buildings; the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood; the ability to respect and maintain or enhance the streetscape patterns including block length, setback and building separations.

[69] The UHOP, in s. B.3.3, (consistent with s. E.3.0 which similarly addresses development and compatibility in Neighbourhoods) also requires that the Proposed

Development conform to the urban design policies that speak to compatibility and development in Neighbourhoods. Utilizing commonly used language, the UHOP policies include those that require the Proposed Development to: promote intensification that makes appropriate and innovative use of buildings and the site and is compatible in form and function to the character of existing communities and neighbourhoods; respect existing character, development patterns, built form and landscape in nearby areas; and contribute to the character and ambiance of the community through appropriate design of streetscape and amenity areas.

[70] The General Policies for Residential Uses in the UHOP (section 3.3) identify that Higher Density residential uses and building forms should be on the periphery of Neighbourhoods, on major or minor arterial roads and must be compatible with existing and future uses in the surrounding area. Section E3.6.1 of the UHOP emphasizes the suitability of such areas for High Density Residential.

[71] The UHOP sets out the vision for growth within the City. It forecasts a population of 660,000 by 2031 (section 1.2) and sets a residential intensification target of 40% for its built-up area by 2015. The City has also adopted a Growth-Related Integrated Development Strategy (“GRIDS Strategy”) approach to guide growth and has been considering alternatives for achieving growth in the decades ahead to 2051 (Exhibits 7 and 7b). This includes the recommended “Ambitious Density” target increasing density within the existing urban area to 50% between 2021 and 2031, increasing thereafter. It was Mr. Johnston’s view that in order to meet the required growth targets without expanding existing urban boundaries, between 7 to 9 buildings similar to the Proposed Development will be required each year. While the growth strategies are not yet formally in effect, such anticipated and required increases in density and growth in this area of the City are, in the Tribunal’s view, consistent with Mr. Johnston’s approach to considering and applying the UHOP policies regarding intensification.

[72] Both the UHOP and the approach used in the GRIDS Strategy make it clear that growth is to occur from residential intensification which must be encouraged generally.

This intensification is to be focused in or near Urban Nodes and Urban Corridors within the City, especially on vacant or underused land. Growth must not occur at the expense to Neighbourhood stability, but Neighbourhoods can not remain static, and they must accommodate change.

Analysis of the UHOP Intensification Policies.

[73] The Tribunal has considered whether the Subject Property is an appropriate location for intensification under the UHOP policies against the evidence and findings relating to both its immediate, neighbourhood and area context and its planning context. It is the Tribunal's view that the characteristics and location of the Subject Property and the City's planning policies outlined above clearly support the intensification of the Subject Property. As Mr. Johnston indicates, the Proposed Development "checks off all the boxes" when viewing the qualitative criteria set out in the UHOP and in particular in s. 3.6.

[74] In the Tribunal's view, what is appropriate is a level of intensification well beyond that of detached, semi-detached dwellings or of townhouse built forms, and the Subject Property, under the criteria, warrants a multi-unit building with a rather significant density. The Tribunal arrives at this conclusion because:

- (a) the Subject Property is within the Urban Boundary 400 metres of the Upper James Street Urban corridor ("Upper James Corridor");
- (b) it is on the periphery, or the perimeter, of the Upper James Community Node located at Upper James Street and Rymal Road. ("Upper James Community Node");
- (c) the transit supportive Upper James Corridor is currently well served by a City bus line and is potentially earmarked for the City's proposed rapid transit route;

- (d) the Subject Property fronts onto both Stone Church Road and West 5th Street, and thus has direct access to two minor arterial roads in the OP which are also currently serviced by City bus routes;
- (e) in addition to transit, it is in proximity to major neighbouring park areas, schools, recreational facilities and serviced by municipal infrastructure;
- (f) the Subject Property, in it's immediate and broader context, can be considered to be on the periphery of the neighbourhood and it is not a site entrenched within a neighbourhood characterized by only low-rise residential dwellings;
- (g) the Subject Property is also not immediately adjacent to low-profile residential uses and benefits from a separation distance from any low-rise residential properties by wide roadways and amenity space and buffering to the north and west, the adjacent place of worship and a four-storey retirement residence;
- (h) achieves a transition in height and massing from the centre of the Mewborn Neighbourhood to the four-storey Retirement residence to the 9-storey Subject Property;
- (i) as it will introduce a higher-density multi-unit residential development with a range of unit types and tenures, it will serve to contribute to the 40% of growth expected to be accommodated in the City's evolving Neighbourhoods and conform to the approach of the GRIDS Strategy and some form of imminent strategy for growth; and
- (j) finally, and of significance, the Subject Property is, as the Tribunal has found, within an area that is in transition and which reflects a lack of uniformity of built-form, uses, development type or neighbourhood character. As such, the Proposed Development will maintain and

enhance that character as it will add a proportionally higher density multi-unit apartment built-form into the periphery of that neighbourhood

[75] Mr. Harrison's evidence, from an urban design perspective, also supported the Subject Property's suitability as a site for higher density development. His oral testimony firmly fleshed out what was contained in his witness statement, opining on the following:

- (a) the variety of unit typologies, including those with accessibility, will serve to provide an alternative residential type to townhomes and single dwelling and contribute to the community's housing needs, and a complete community, as provided for in the UHOP;
- (b) "the surrounding neighbourhood is characterized by its transitional and varietal forms of development" and in that respect, the proposed development is compatible with the character of the existing neighbourhood;
- (c) with the Church to the east and the additional institutional use to the south, and the roadways to the north and west, the intervening medium density residential uses in the townhouse complexes and the low rise residential uses beyond serve to create appropriate separation distances and transitions in scale to support the positioning of the higher density multi-unit Proposed Development at this location;
- (d) the Subject Property is located approximately 300 m from the Upper James Primary Urban Corridor, and Upper James Community Node and the retail and commercial services and transit routes; both West 5th Street and Stone Church Road are designated Minor Arterial Roads – all factors to be considered for the location of a higher density and larger built-form.

[76] The Tribunal has considered, but generally rejects Mr. Van Rooi's expressed

opinion that the Proposed Development on the Subject Property does not meet the residential intensification tests. Mr. Van Rooi's focus upon neighbourhood and "area" character was narrowed to the immediacy only of the adjacent properties and the townhouses across the street rather than area context considered by the Tribunal above. Mr. Van Rooi's limited context and his identification of the scale of the neighbourhood as strictly a "low rise character area", has formed a substantial part of the basis for his opinion as to the need for low or medium density intensification on the site. This is unfortunately at odds with the determination of the first Issue adopting the broader context and characterization of an area in transition and existing and potential multi-unit development adopted by the Tribunal.

[77] Mr. Van Rooi's approach is also, in the Tribunal's view, at odds with its findings as to the UHOP's qualitative criteria and site-centric approach to determining appropriate intensification, and locations for high density development. In carefully considering Mr. Van Rooi's evidence the Tribunal is also of the view that Mr. Van Rooi was not necessarily opposed to describing the neighbouring area surrounding the Subject Property as one in transition. Mr. Van Rooi acknowledged on cross-examination that the Subject Property is a proper area for intensification and is considered a High Density designation under the UHOP policies, differing only with respect to the degree of higher density that is appropriate.

[78] Upon the whole of the evidence, the Tribunal finds that the Subject Property is in an area where higher-density intensification is to be accommodated, encouraged and thus appropriate under the UHOP policies.

Appropriate Degree of Intensification for the Subject Property

[79] The City takes issue with the proposed scale of intensification of the Proposed Development which will have a density of 309 units per ha. Mr. Van Rooi's evidence was that this level of intensification was completely inappropriate. In his view, the lower residential densities associated with the town homes in the immediate area make the proposed scale of intensification incompatible and that only lower scale medium density

is appropriate. The Three Storey Townhouse Units and the Two Storey Townhouse Units that will face the Proposed Development across minor arterial roads have a density levels of 43 units per hectare and ten (10) units per ha respectively.

[80] Mr. Van Rooi also points to s. 3.6.6 b) as limiting the level of intensification to 200 units per ha for a high-density development like the Proposed Development which is in a Neighbourhoods designated area.

[81] The Tribunal prefers the evidence on Mr. Johnston on this issue since it is based on the policies of the UHOP. Mr. Johnston emphasized that section 3.6.6 c) permits higher densities for a smaller site like the Subject Property if it is on arterial roads, provided the other policies of the UHOP, which are focused on compatibility, are met. The UHOP supports a density higher than 200 units per ha for the Subject Property if the Proposed Development is compatible and otherwise complies with section 3.6.6 c). Furthermore, the City, in Mr. Johnston's view, contemplates a higher density since the two Stone Church Road West lots Zoned "DE-2/S-1700" (Multiple Dwelling) District, Modified, which form part of the Subject Property, permit an eight-storey multiple residential building according to the ZBL as amended.

[82] The Tribunal finds, upon all of the evidence, that the Proposed Development, as it will be permitted by the OPA and the ZBLA, conforms with the UHOP policies as they relate to the location of high density residential in the form proposed by the Applicant. In the Tribunal's view, the Subject Property, in its existing context both immediate and broad, and in its planned context, is an appropriate and desirable location for higher density intensification such as that proposed. On a *prima facie* basis, the Tribunal also finds that the proposed density and degree of intensification that would be enabled by the OPA and the ZBLA is not excessive or unreasonable and is supported by the UHOP policies and the factual evidentiary record.

[83] What remains to be determined is whether the proposed level of intensification gives rise to adverse impacts or problems of incompatibility when considering those additional policies that address compatibility for proposed intensification, and in this

case, high density. This also brings into play the issues raised by the City with respect to conformity to urban design guidelines and policies.

ISSUE 3 - COMPATIBILITY

Intensification and Compatibility

[84] As indicated, s. E2.6 of the UHOP makes it clear that applications for residential intensification within Neighbourhoods, like the application in the current case, are to be permitted provided that they meet the compatibility criteria in Sections B.2.4 – Residential Intensification and E.3.0 - Neighbourhoods Designation of the OP. Sections B.3.3.1.5, B.3.3.1.8, and B.3.3.2.3 of the OP, summarized above, set out the tests for this aspect of compatibility.

[85] The approach to compatibility differs between Mr. Van Rooi and the City, and Mr. Johnston and the Applicant. Mr. Van Rooi wishes to ascribe a very narrow definition to the term compatible. His evidence is focused on his view that the immediate residential uses are low rise and low density compared to the Proposed Development. In considering Mr. Van Rooi's opinion evidence, the Tribunal observes that it is his view that a nine-storey building would "not be the same as, or similar to", three or two storey, low rise, low density townhomes that are in the immediate area and is thus incompatible. Mr. Van Rooi is of the opinion that the height, massing, scale and density, in relation to the immediately adjacent lands and streets, make the Proposed Development so different that it is not compatible.

[86] The Applicant's submission, supported by Mr. Johnston's evidence, in contrast, points out that the approach towards compatibility advanced by Mr. Van Rooi is not supported by the UHOP or the general approach of the Tribunal when considering questions of compatibility. The Tribunal agrees and prefers Mr. Johnston's evidence on the definition of compatible since it is firmly rooted in the definition of the term in the UHOP and the "standard" approach to the issue of compatibility. Mr. Van Rooi's evidence is not consistent with a fundamental premise within the UHOP that

compatibility speaks to: two things being in harmony and coexisting without conflict, rather than; two things being the same as, or similar to, each other.

[87] The definition of compatible in the UHOP makes it clear that it should not be interpreted as meaning “the same as”, or even “similar to”, which appears to be integral to Mr. Rooi’s planning opinion and the City’s submission.

[88] Compatible is defined in Chapter G of the OP as follows:

“Compatibility/compatible: means land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area. Compatibility or compatible should not be narrowly interpreted to mean “the same as” or even as “being similar to”.

[89] Mr. Cheeseman also referred the Tribunal to the following OMB cases dealing with the definition of compatible: *Motisi v. Bernardi*, 1987 CarswellOnt 3719, 20 O.M.B.R. 129 (“*Motisi Case*”); *Re: Keewatin (Town) Zoning By-law 94-013*, 1996 CarswellOnt 5838, 33 O.M.B.R. 293 (“*Keewatin Case*”); and *Oasis Townhouses On Lawrence Inc. v. Toronto (City)* (2019), 2019 Carswell Ont 20193 (“*Oasis Case*”).

[90] Each of these cases dealt with the term compatible. The Tribunal refers to the following extracts from each of these decisions, which also address the element of adverse impact as it is a factor in compatibility:

In the *Motisi Case* the Board stated the fundamental definition widely adopted in planning considerations:

Being compatible with is not the same thing as being the same as. Being compatible with is not even the same thing as being similar to. Being similar to implies having a resemblance to another thing; they are like one another, but not completely identical. Being compatible with implies nothing more than being capable of existing together in harmony.

The Board in the *Keewatin Case* elaborated further as follows:

In the view of the Board, as it has repeatedly stated in the past, compatibility turns upon the impact of the proposal on the character of the

environment, both built and natural, with due regard for how that character is likely to evolve in the foreseeable future. Being compatible with is not the same as being similar to. Being compatible with is not even the same thing as being similar to. Being similar to means having a resemblance to another thing; they are like one another, but not identical. Being compatible with means being mutually tolerant and capable of coexisting together in harmony in the same area. In the final analysis, the proposal should not cause an unacceptable adverse impact upon existing built and natural environments.

And in the *Oasis Case*, the Board stated:

The scale of the proposed townhouse blocks reflects the Property's location along a Major Street and is compatible with the existing one and two-storey dwellings located in the neighbourhood to the south. In this respect, "compatible" does not mean "identical to" but rather means the ability to co-exist without unacceptable impacts of one upon the other.

[91] The City does not dispute the definitions and principles set out in these cases. Adopting a consistent approach, these definitions and guiding principles previously endorsed by the Board and Tribunal as to the concept of "compatible" have been obviously adopted in the City's definition in the UHOP. The Tribunal confirms that the concept of compatibility as set out above should prevail.

[92] A significant consideration of compatibility, based on this approach, is whether the Proposed Development will have any "unacceptable adverse impact" on the neighbourhood and adjacent lands or instead coexists in harmony with these properties.

Will the Proposed Development Result in An Unacceptable Adverse Impact?

[93] To assess whether the Proposed Development is compatible and will result in some measure of unacceptable adverse impact to the Neighbourhood, the Tribunal has considered the evidence presented on the following matters:

- (a) whether the Proposed Development respects, and is sensitive to, the existing Neighbourhood and contributes to the community through good design;

- (b) whether there was an appropriate transition to scale using the angular plane studies for the surrounding residential uses;
- (c) whether the proposed scale, density and height are appropriate for this location; and
- (d) whether there are possible privacy and overlook issues for surrounding properties including the Church Property.

Relationship with Existing Neighbourhood and Area and Appropriate Design

[94] A recognized criteria in determining compatibility is whether the Proposed Development respects, and is sensitive, to the existing surrounding neighbourhood and whether its design contributes to the neighbourhood.

[95] Mr. Van Rooi's evidence criticizes the Proposed Development for not providing a suitable transition in building height and adequate buffering including appropriate setbacks or step-backs. The massing and scale of the built-form is, in Mr. Van Rooi's view, excessive and incompatible. His evidence is that greater setbacks with more landscaping are necessary to better relate to the adjacent properties. He is specifically concerned that the setback to the Church Property is inadequate. He also has pointed to overlook and privacy issues with the Church Property in his evidence in chief.

[96] Despite these opinions, the City did not introduce any urban design evidence to support such criticisms of urban design and matters of built-form.

[97] In contrast, Mr. Johnston's planning evidence, supported by Mr. Harrison's qualified opinions on matters of urban design, has identified the many changes that the Appellant made to its design in response to community and City concerns and the extent to which the building height, massing, setbacks, density and landscaped area were all adjusted to ensure compatibility with the immediate and broader context.

[98] Mr. Johnston has also provided his views on the subject of unacceptable adverse impact on the surrounding uses. Mr. Johnston's evidence is that the various studies and reports evaluating the Proposed Development, and its relationship with adjacent properties and the streets, were favourable in all respects and supportive of the final concept plan now before the Tribunal. Mr. Johnston has pointed out that upon all of the evidentiary record, there is no evidence to suggest that the Proposed Development will generate any unacceptable adverse impacts to the neighbourhood that cannot be mitigated.

[99] Of significance to the Tribunal is the fact that Mr. Johnston's evidence was also supported by Mr. Harrison's uncontroverted architecture and urban design evidence. In Mr. Harrison's view, in turn, supporting Mr. Johnston's planning opinion:

- (a) the Proposed Development is designed with quality materials and techniques which complement and enhance the Neighbourhood.
- (b) the Proposed Development contributes to and respects the existing character and built form of the Neighbourhood by providing grade-related townhome style units on the ground floor with terraces, pedestrian connections from each ground-related unit to the public sidewalk and an appropriate transition in scale to the surrounding existing development by setting the bulk of its massing away from the neighbouring properties to the south and east.
- (c) the design of the facades facing the north and west have been articulated and designed with a partial "podium" to create streetscape interface on the public street;
- (d) the "uglies" of a building relating to loading, garbage, intake vents, blank walls and ingress have been placed away and out of sight from the public realm;

- (e) the built form is separated from any low rise residential areas by good buffering with the Church Property and Retirement Property, as well as the two streets to the north and west: the parking areas and landscaping areas to the south represent a separation space to the Retirement Property; the road widening to the north and west will extend the public roadway width lying between the Proposed Development and the Townhomes across the street (with the additional rear-yard greenspace on the one side); and the significant separations to the Church structure created by the large surface parking area and setbacks to the Church from the boundary.
- (f) The east interface of the building with the Church is appropriate from an urban design perspective as it is primarily a large parking lot utilized on a part-time basis and will not, in his view, impede the development of the Church Property in the future if redeveloped for other uses. This is particularly due to its significant size and ability to accommodate substantial development;
- (g) The height and scale of the building are appropriate, within the angular plane and have been fairly determined based on the angular plane studies and the corridor planning policies, and as such result in no adverse impacts.

[100] The Tribunal has carefully considered the cross-examination of Mr. Harrison, and the general submissions provided by the City on urban design and architectural matters, and finds that Mr. Harrison's evidence as to the conformity of the Proposed Development with Urban Design policies within the UHOP remains unshaken.

[101] Mr. Harrison's position that the east façade, and the set-backs and absence of step-backs are appropriate in relation to possible future development on the Church Property was subjected to scrutiny during cross-examination. The existing condition of the property, including the significant size of the Church Property, and the fact that the

majority is used for surface parking was important for Mr. Harrison's conclusion that the Proposed Development has more than adequately responded to the Church Property. Further, in the future, if change occurs, the substantial size of the Church Property will allow any proposed development to similarly adequately interface and relate to what will then be on the Subject Property, i.e. the Proposed Development. Based upon Mr. Harrison's extensive experience, it is his view that there will be something more significant than a detached or semi-detached dwelling that will replace the Church, if that occurs.

[102] The Tribunal accepts Mr. Harrison's opinions and finds that specifically, the Proposed Development does not result in any adverse impact and the proposed height, massing and scale for the east side, are appropriate, in conformity to the urban design and compatibility policies of the UHOP, and represent good urban design. The Tribunal finds the Applicant's position, from a planning and urban design perspective, to be reasonable, as the Applicant submits that the locational and spatial characteristics of the Church Property will lend itself to a higher density type of residential development for the same reasons that the Subject Property is appropriate for intensification.

[103] While Mr. Van Rooi has provided some generalized comments regarding the urban design, and spoke to potential adverse impacts, in the Tribunal's view, these were apprehensions that were unsupported by the evidence, and contradicted by the only architectural and urban design evidence. No other witness or party appeared in this hearing to raise any concern of any kind regarding impact, and the extent of Mr. Van Rooi's expressed concerns relate more to the potential for future interfacing with future development on the Church Property, should it ever be subject to redevelopment.

[104] Overall, the Tribunal prefers the evidence of Mr. Johnston and Mr. Harrison on the issue of respect and sensitivity of the Proposed Development to the surrounding Neighbourhood. The Tribunal finds that the design efforts have been made to blend in with the surrounding residential town home uses primarily with the grade-related townhome style units and pedestrian connections with the ground related units and the

interface with the Church Property. The absence of any established unacceptable adverse impacts, upon the evidence, serves to support this finding.

Transition to Scale - 45 Degree Angular Plane Analysis

[105] Mr. Harrison confirms that the City-Wide Corridor Planning Principles and Design Guidelines (“CPPDGs”) apply to the Subject Property since it is within 400 m of the Upper James Corridor. The CCPDGs provide criteria to ensure compatibility and appropriate transition to scale with the immediate neighbouring properties. The CCPDGs recommend that buildings be massed to fit within a 45-degree angular plane taken from the property line where a property is adjacent to a residential use, and from a line at grade at a distance of 80% of the width of the street right-of-way where a property is adjacent to a street.

[106] Along the northern and western elevations, where the Subject Lands are adjacent to Stone Church Road West and West 5th Street respectively, the building mass of the proposed development is contained within the envelope of the angular plane taken at a distance of 80% of the planned right-of-way width as prescribed by Section C.4.5.2 and Schedule C of the UHOP, which will be achieved through the road widening dedication requirements of the Site Plan approval.

[107] The CCPDGs do not require that an angular plane analysis be completed for properties zoned Institutional, like the Church Property and the Retirement Home Property. Mr. Harrison’s evidence was that the Proposed Development, for the most part, passed the angular plane analysis for the Retirement Home Property, acknowledging that the decorative roof stone feature will be in shadow only to a very minor extent. He also advised that the test should not be considered relevant to the Church Property since the Proposed Development would be facing the large parking lot there.

Scale, Density, Height and Placement of The Proposed Development

[108] The scale, density, height and placement of the Proposed Development are all important factors for the compatibility with the Neighbourhood. Mr. Van Rooi's evidence is that building arrangement, height, density, massing, setbacks, step backs, transition and spacing of the Proposed Development do not sufficiently mitigate adverse impacts on the surrounding context. As indicated, Mr. Van Rooi has opined in his evidence in chief that there are adverse impacts but has not explained the nature of these adverse impacts other than to point to possible overlook and privacy issues on the Church Property. Mr. Van Rooi's responses on the existence of such adverse impacts upon the Church Property during cross-examination are addressed below.

[109] The opinion evidence of both Mr. Harrison and Mr. Johnston is that the proposed scale, density, height and placement of the Proposed Development is appropriate and compatible for this location. The following factors were identified:

- (a) The building is designed with a tripartite division of the elevation vertically through use of material variety to minimize any negative scale impacts and provide for a transition in massing to the surrounding existing development.
- (b) Townhome style units are incorporated within the northern facade to promote a human- scale built form which is reflective of the built form of the existing Two Storey Townhouse Units and the Three Storey Townhouse Units to the north and west.
- (c) The building massing is contained within a 45-degree angular plane in order to limit built form impacts on the surrounding residential uses.
- (d) In addition, the building design provides an appropriate buffer to the abutting Church Property and Retirement Home Property by aligning the massing along the roads and with yard setbacks.

[110] In the Tribunal's view, Mr. Harrison's opinion evidence on architectural and urban design matters and the issue of compatibility was presented in a concise, direct and forthright manner and, as indicated, is the only expert evidence on these matters before the Tribunal. As indicated, the City's attempt, in cross-examination, to challenge Mr. Harrison's opinions were wholly ineffective in undermining his clearly expressed conclusions as to the Proposed Development's conformity with the urban design and building policies contained within the UHOP.

[111] The Tribunal prefers the evidence of Mr. Harrison and Mr. Johnston on this issue. Insufficient evidence has been provided by Mr. Van Rooi on the nature of any adverse impacts from the scale, height, density and placement of the Proposed Development. Only concerns relating to possible overlook and privacy adverse impacts on the Church Property remain to be considered.

Possible Overlook and Privacy Adverse Impacts on The Church Property

[112] Mr. Van Rooi initially testified that the reduced setback of 4.72 m rather than 7.5 m, proposed for the eastern side yard at 4.72 m, would create privacy and avoid overlook issues for the current and future uses of the Church Property. In cross-examination however, the Tribunal heard Mr. Van Rooi recant from this position and he admitted that despite the apprehensions, there were no existing overlook, privacy or noise issues, or significant shadow concerns, and no indication of any undue adverse impacts with the Church Property (or the other three sides) from a planning perspective. Further, Mr. Van Rooi acknowledged that future development on the Church Property could be done in such a way that it would not be impacted.

[113] As such Mr. Van Rooi admitted that since there was, and could be, no adverse impact from the Proposed Development, it must therefore be compatible.

[114] Both Mr. Harrison and Mr. Johnston presented evidence confirming that the Proposed Development facing the Church Property will be adjacent to the parking lot on this land. The evidence before the Tribunal is simply that there is, and will be, no known

unacceptable overlook or privacy issues relating to uses or any adverse impacts for that matter.

[115] On the subject of *potential* impacts of overlook and privacy, the argument advanced by Mr. MacDonald, based in part upon Mr. Van Roo's witness statement, that future possible uses of the property may be incompatible with the Proposed Development was, as indicated, unconvincing. Although single family dwellings are permitted on the Church Property due to its zoning, the evidence of Mr. Johnston (and Mr. Harrison) is convincing that the likelihood of the Church Property being redeveloped in this way is remote. It is reasonable to expect that land values for underutilized properties in the area will be enhanced by the Proposed Development. Should the Church Property be available for future redevelopment there will be too much pressure to intensify any potential residential use in order to maximize the value generated by redevelopment.

[116] As has been noted, on the subject of adverse impacts, no representative from the Church located at the Church Property sought participant or party status at the hearing. Had representatives of the Church been concerned by the Proposed Development's impact on current or future uses of the Church Property requests for status could have been made to the Tribunal. None did so.

[117] The only person to submit a participant statement to the Tribunal on this case was Mr. Walczak. Much of his Participant Statement is comprised of questions and is focused on Mr. Walczak's dissatisfaction with other approved developments in the City, the general changes occurring within the City and his concerns that the City is becoming more like Toronto. Mr. Walczak's Participant Statement expressed opposition to the Proposed Development is based primarily upon opposition to intensification generally, which is insupportable in the face of the Provincial and municipal planning policies supporting planned intensification.

[118] Mr. Van Rooi also initially advanced the position that by removing a few storeys or removing a portion of the side of the U-shaped building facing the parking lot of the

Church Property, to increase the setback, the Proposed Development could be adjusted to better achieve conformity and compatibility, particularly with the Church Property. The City put this alternative to both Mr. Johnston and Mr. Harrison during cross-examination.

[119] The Tribunal has considered the responses provided by Mr. Johnston and Mr. Harrison to the City's suggestion of removing storeys, applying step-backs to upper levels and reducing units to reduce the massing and scale of the built-form and finds that they are persuasive and ring true in the context of the evidence. The Tribunal found Mr. Harrison to be appropriately responsive to this suggestion. Mr. Harrison noted that the balconies on the east side had been stepped back to 6.77 m where most of the windows are located and the 1.5 m undulation along the east face for the six sections of recessed spacing is located. The existence of nine (9) storeys, rather than eight, or even seven, results in little change to the degree of impact, and does not create any unacceptable adverse impact, including the Church Property.

[120] Mr. Johnston's opinion essentially was that reducing storeys and imposing upper level step-backs for the sake of reducing height, mass and scale and only for the sake of reduction of density would fail to utilize a more reasonable policy approach to appropriate design for *this* building on *this* property, at *this* location. The focus should be upon achieving planning policy objectives and implementing good site-specific design. Mr. Johnston testified that aside from the construction complications in creating step-backs on the outer side of a center-hallway single loaded corridor design (which is the case in this building) such step-backs and upper floor removal, and the elimination of valuable units, would ignore the importance of achieving broader policy objectives of appropriate intensification and the ability to design a building for this site that is compatible with the neighbourhood, balances all design and planning criteria and has no unacceptable adverse impacts upon adjacent properties.

[121] The Tribunal agrees with this approach and the logic of Mr. Johnston's processes. This approach creates a good building that, in the end, is one that is massed correctly, responds well to interface and its context, and designed to satisfy

planning policy objectives. Achieving good compatible intensification at a site-specific level, without adverse impacts, as provided for in the UHOP, with the required OPA necessary to adjust the level of unit density, in the Tribunal's view represents the right approach and good planning.

[122] For the reasons indicated above, the Tribunal agrees that in the face of the planning policy objectives to be achieved on this site, there is little need for such broad-sweep reductions in height or upper level step-backs, simply for the sake of reducing height, massing, scale and density. This is particularly so since there is no supportable evidence of overlook or privacy issues relating to the Church Property that warrant such reductions. In the Tribunal's view, the City, as noted, has not presented any urban design evidence to support such reductions in any event.

Overall Compatibility

[123] Upon considering the whole of the evidence against the UHOP objectives and policies, the Tribunal finds that:

- (a) The Proposed Development and the local contextual neighbourhood area can coexist together in harmony, while maintaining and enhancing the existing character of the surrounding area, environment, and locale;
- (b) The Proposed Development respects the existing character and built form of the surrounding neighbourhood by providing grade related units on the ground floor, and an appropriate transition in scale to surrounding development.
- (c) The uncontroverted urban design evidence before the Tribunal is that the final built form, and its height, massing and scale, has been designed to be compatible with the existing and future uses in the surrounding area through implementation of setbacks, step backs, the 45 degree angular build-to-plane and appropriate building materiality. As such the Tribunal

finds that the scale, density and height of the Proposed Development is appropriate for this location;

- (d) Other design elements, including adequate landscaping, amenity features, on-site parking, interior driveways and loading areas, maintain and enhance the character of the area neighbourhood. Podium-like features and articulation on the north and west facades facing the public realm have also been designed to co-exist with the surrounding residential town home uses and specifically with the grade-related townhome style units and pedestrian connections with the ground related units;
- (e) The Proposed Development is designed to be compatible with surrounding existing uses and to respect existing character, development patterns, built form and landscape, and to minimize adverse impacts on such surrounding existing development;
- (f) No unacceptable adverse impacts on the surrounding area neighbourhood or adjacent properties have been identified. More specifically, upon the whole of the evidence, there are no unacceptable adverse overlook or privacy issues for the current use, or reasonably anticipated future uses, of the Church Property;
- (g) For all these reasons, and upon these findings, the Proposed Development, as it will be permitted by the proposed planning instruments, conforms to the urban design policies of the UHOP relating to compatibility and is consistent with the City's applicable urban design guidelines.

THE OFFICIAL PLAN AMENDMENT

[124] The Tribunal has reviewed the OPA presented by the Applicant as **Appendix "2"**. The Tribunal requested a final clean draft of the OPA from the Applicant for

consideration and attachment to the Decision and Order, if appropriate. Upon receipt of the submitted draft a typing or drafting error was noted with respect to the identified unit density per ha (referring to 339 units per hectare instead of 309 units) which has now been corrected.

[125] Upon the findings contained herein with respect to consistence and conformity to Provincial Policy, and with regard to the matters of Provincial Interest, and all other findings upon the evidence the Tribunal is satisfied that the submitted draft OPA in Appendix 2, as it will permit the Proposed Development, should be approved.

ZONING BY-LAW AMENDMENT

[126] For the purposes of these Appeals, the proposed ZBLA, also submitted by the Applicant, must also be reviewed generally to determine conformity with the UHOP as it will be amended by the OPA, and to ensure consistency and conformity with Provincial policy.

[127] No evidence was presented on the proposed ZBLA by Mr. Van Rooi other than to oppose it, as the amended performance standards will permit the Proposed Development. The Tribunal accepts the evidence of Mr. Johnston on the form of the draft instrument and the proposed site-specific performance standards contained within the ZBLA, which was as follows:

- (a) The proposed setbacks vary from those which are required in the “DE-2” Zone to accommodate the site-specific characteristics of the Proposed Development. The amending by-law includes a reduced front yard setback of 2.0 metres, interior side yard of 2.5 metres, and flankage side yard of 2.0 metres for the portion of the building above grade. Setbacks to the underground parking structure vary from 0.0 metres to 0.9 metres. No modification is required for the rear yard setback, which is proposed to be 15.5 metres. These setbacks are appropriate as they will not result in any adverse impacts to the surrounding area. The setbacks along Stone

Church Road West and West 5th Street provide sufficient area for landscaping and streetscape improvements and promote a 'human scale' form of development by establishing the ground floor residential units close to the street. The interior side yard setback along the eastern property line allows for a sufficient distance between the Church Property and the Proposed Development to mitigate issues of overlook, shadowing and compatibility. Moreover, as the Shadow Study prepared by KNYMH Architects demonstrates, the massing of the proposed building will not cast shadows on the church during times of service.

- (b) The proposed ZBLA includes regulations for the number of parking spaces and parking space size. The draft ZBLA reduces the number of parking spaces provided to 1.0 space per dwelling unit from the required 1.25 spaces per dwelling unit for multiple dwellings, and the parking stall size from the required 2.7 metres wide and 6.0 metres long to 3.0 metres wide and 5.8 metres long for surface parking spaces, 2.8 metres wide and 5.8 metres long for spaces within an underground parking garage, and 2.6 metres wide and 5.5 metres long for small car spaces. These site-specific regulations are appropriate as they are in keeping with the City of Hamilton Zoning By-law No. 05-200 parking standards approved by Council on November 8, 2017. Further, as discussed in the Transportation Impact Study prepared by NexTrans, the proposed reduction is appropriate given the proximity of the Subject Property to a variety of uses and public transit, and provision for on-site bicycle storage.
- (c) The Multiple Dwellings "DE-2" Zone limits building height to eight storeys or 26.0 metres in the ZBL. The ZBLA is required to permit a maximum building height of 9 storeys. This site specific regulation is appropriate as it represents a minor increase from the as-of-right zoning applicable to 83-89 Stone Church Road West, forming part of the Subject Property, which was vetted by Staff and approved by Council via ZAC-16-059 (By-law No.

17-131). Moreover, the built form has been designed to emulate the effects of the as-of-right building height for 83-89 Stone Church Road West, ensure that the building is compatible with the existing low-rise built form, and minimize shadowing and overlook by establishing adequate setbacks and step-backs for portions of the building. Moreover, as the Urban Design Report prepared by KNYMH Architects demonstrates, the vertical interface of the building along Stone Church Road West will be effectively integrated with the existing streetscape through the employment of a four-storey projection from the nine-storey building. This projection will help maintain sightlines from the street and avoid the creation of a canyon effect along Stone Church Road West.

- (d) The proposed ZBLA waives the requirement for landscaped area. It is appropriate because it will ensure there is a desirable balance between the developable area, parking and landscaping. Adequate landscaping will be provided in the form of landscape islands throughout the surface parking area and planting strips along the neighbouring property lines. The Applicant will be providing substantial road widening dedications on Stone Church Road West and West 5th Street that will allow for sufficient area for landscaping within the municipal right-of-way. Moreover, the provision of quality and sufficient landscaping will be secured through the SPA.
- (e) The proposed ZBLA seeks to permit a canopy and ground floor terraces to project into the required yards to accommodate the site-specific characteristics of the Proposed Development. These design features will add visual interest to the streetscape and help to establish a positive interface between the private and public realms and are appropriate.

[128] Upon all of the evidence, and the evidence presented by Mr. Johnston, the Tribunal finds that the draft ZBLA submitted to the Tribunal as Appendix 3 is appropriate, conforms to the UHOP as amended by the OPA, and should be approved.

SITE PLAN APPEAL

[129] The position of the parties as to the proposed Site Plan and related Plans and elevations was tied to the outcome of the Appeals relating to the ZBLA and the OPA. Limited evidence was led with respect to the form of the draft Site Plan Conditions submitted by the Applicant which appeared to be generally acceptable to the City, in principle, subject of course to the positions taken with respect to the form of the Proposed Development as set out in the final submitted Concept Plan and Elevations. In closing argument, the City indicated that subject to the determinations to be made on the OPA and the ZBLA, it was in agreement with the approach to the Site Plan and the Conditions, if those Appeals were allowed by the Tribunal.

[130] The Parties did not otherwise make significant submissions on the SPA other than to request that if the OPA and ZBLA are approved, the SPA should be approved subject to additional conditions of Site Plan approval relating to traffic which were to be negotiated and finalized by the parties. This has now been done.

[131] The Tribunal has received and reviewed the Final draft of the Draft Conditions of Site Plan Approval, (**Appendix “4”**) as amended by the additional Addendum condition submitted on consent by the Parties, the Final draft Architectural Elevations (**Appendix “5”**) and the Final draft Concept Plan (**Appendix “6”**). The Tribunal finds that the plans as submitted reflect the evidence presented in this hearing as they identify the built-form and planned construction for the Proposed Development, which the Tribunal has determined is appropriate and should be approved. The Tribunal has reviewed the Draft Conditions of Site Plan approval and finds that as they will facilitate the orderly development and construction of the Proposed Development, they are appropriate.

[132] As requested, the Panel will remain seized of the matter of the SPA, and specifically with respect to the Site Plan Conditions and may be spoken to in the event of any disagreement arising from this Decision and Order in relation to those Conditions.

SUMMARY OF FINDINGS

[133] To summarize, the Tribunal finds that:

- (a) For the reasons indicated the Subject Property is located within a neighbourhood and area that is in transition, accommodating various locations and types of higher density development of undeveloped and underdeveloped lands, including multi-unit developments such as the Proposed Development;
- (b) Upon consideration of the objectives of the UHOP, the policy approach to assessing the suitability of a property for intensification within its context, and the requirement for a balanced consideration of the UHOP's criteria, the Tribunal finds that the Subject Property is an appropriate location for higher density, multi-unit intensification in the order proposed by the OPA. The UHOP tests for intensification, and determining whether a more intensive residential development like the Proposed Development is justifiable on the Site have, in the Tribunal's view, been satisfied;
- (c) In terms of its immediate context, the site-specific location and configuration of the Subject Property, with the intervening adjacent and nearby uses and the appropriate separation distances and transitions in scale which exist, is supportive of the Proposed Development and its proposed density;
- (d) For the reasons indicated the Proposed Development respects the existing character, development patterns, built form and landscape in the surrounding area of the Subject Property and is compatible with the surrounding area, environment, and locale, and with existing uses without any unacceptable adverse impacts on surrounding existing development and lands;

- (e) The Proposed Development as it will be permitted under the submitted OPA and ZBLA is accordingly in conformity with all objectives and policies contained in the UHOP, and related planning policies which address intensification, higher intensification, compatibility, development in Neighbourhoods, and urban design.
- (f) As the proposed Development will result in the addition of 216 rental apartment units to the housing stock within the urban settlement boundary of the City and appropriately utilize the current City infrastructure, the higher density of 309 units per hectare, as will exist in the Proposed Development, and permitted by the OPA is appropriate intensification that is justified for the Subject Property under the policies of the UHOP, and represents good planning in the public interest.
- (g) With respect to s. 2 of the *Act*, the Tribunal is satisfied that the Proposed Development, as permitted by the OPA and the ZBLA has appropriate regard for matters of Provincial Interest and in particular, the adequate provision of a full range of housing, including affordable housing in subparagraph (j) and the Subject Property's appropriate location for growth and development under subparagraph (p).
- (h) The Proposed Development, as enabled by the planning instruments, is consistent with the policies of the PPS including: the importance of growth within current settlement areas and healthy, liveable and safe communities; the appropriate intensification of an existing built up area and efficient utilization of existing infrastructure; residential intensification development that will contribute to the range and mix of housing in the area by adding rental units for families in an area characterized by low and medium density housing; and transit supportive development with access and proximity to existing and planned transit.
- (i) The Proposed Development and draft OPA and ZBLA conform to the

relevant policies of the Growth Plan including: primarily, prioritizing intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure and support transit viability; achieving complete communities; the direction of growth in the Province to current settlement areas; encouraging growth within an underutilized area of the City; and supporting a range and mix of housing options including a variety of sizes of badly needed rental housing in the City.

- (j) The drafts of the OPA and ZBLA, as now amended, are appropriate and should be approved for directed enactment and adoption.
- (k) The final draft of the Site Plan drawings and the draft Conditions to Site Plan Approval are also appropriate and should be approved in the form appended to the Order, subject to any further matters which the Parties may wish to address before the Tribunal in relation to this Decision and Order.

[134] The Tribunal finds that the three appeals should be allowed in part and the necessary Orders made to permit the Proposed Development and approve the draft OPA, ZBLA and Site Plan with Conditions.

ORDER

[135] **THE TRIBUNAL ORDERS** that the Appeal under s. 22(7) of the *Planning Act* relating to the proposed Official Plan Amendment is allowed in part, and the Urban Hamilton Official Plan for the City of Hamilton is amended as set out in **Appendix 2** to this Order. The Tribunal authorizes the municipal clerk of City of Hamilton to assign a number for the Official Plan Amendment and specific policy numbers where required.

[136] **THE TRIBUNAL ORDERS** that the Appeal under s. 34(11) of the *Planning Act* relating to the proposed Zoning By-law Amendment is allowed in part and directs the City to amend By-law No. 6593 as set out in **Appendix 3** to this Order. The Tribunal

authorizes the municipal clerk of City of Hamilton to assign a number to this by-law for record keeping purposes.

[137] **THE TRIBUNAL ORDERS** that the Appeal under s. 41(12) of the *Planning Act* relating to the proposed Official Plan Amendment is allowed in part, and the site plan prepared by KNYMH Architecture Solutions attached in two parts as **Appendix 4** and **Appendix 5** is approved subject to the Conditions set out in **Appendix 6** to this Order and such further matters that may arise as a result of the determinations and Orders made with respect to the Official Plan Amendment and Zoning By-law Amendment;

[138] The panel will remain seized with respect to the Site Plan and the Conditions of Site Plan approval and may be spoken to in the event of a disagreement between the parties.

“David L. Lanthier”

DAVID L. LANTHIER
VICE-CHAIR

“A. Cornacchia”

A. CORNACCHIA
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

APPENDIX 2

URBAN HAMILTON OFFICIAL PLAN AMENDMENT NO. __

The following text constitutes Official Plan Amendment No. _____ to the Urban Hamilton Official Plan.

1.0 **PURPOSE AND EFFECT:**

The purpose of the Official Plan Amendment (OPA) is to permit a multiple dwelling development, having a maximum residential density of 309 units per hectare, whereas Policy E.3.6.6 b) permits greater than 100 units per hectare and not greater than 200 units per hectare in high density residential areas of the “Neighbourhoods” designation.

2.0 **LOCATION:**

The lands affected by this Amendment are Part of Lot 15, Concession 8, Geographic Township of Barton, in the City of Hamilton, municipally known as 73-89 Stone Church Road West & 1029 W 5th Street.

3.0 **BASIS:**

The basis for permitting this Amendment is as follows:

- The proposed development supports the residential intensification policies of the Urban Hamilton Official Plan and assists in the creation of an active and vibrant pedestrian realm;
- The proposed development is considered to be compatible with the planned and existing development in the immediate area;
- The proposed Amendment is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe.

4.0 **Actual Changes:**

Volume 3 – Urban Site Specific Policies

4.1 **Text Changes**

4.1.1 Urban Hamilton Official Plan, Volume 1, Chapter E, Urban Systems and Designations is amended by:

(a) Adding a new Site-Specific Policy – UHN-__ to read as follows:

**UHN-__ LANDS KNOWN AS 73-89 STONE CHURCH ROAD
WEST & 1029 WEST 5TH STREET, FORMER CITY OF HAMILTON**

1.0 Notwithstanding the minimum density permitted in Section E.3.6.6 b) of Volume 1, for the lands designated “Neighbourhoods” located at 73-89 Stone Church Road West and 1029 West 5th Street, the maximum net residential density shall be 309 units per hectare.

4.2 MAP CHANGES

- 4.2.1 Volume 3 – Map 2 Urban Site Specific Policies Key Map is amended by identifying the lands located at 73-89 Stone Church Road West and 1029 West 5th Street as UHN-__ as shown on Appendix “A”, attached.

IMPLEMENTATION:

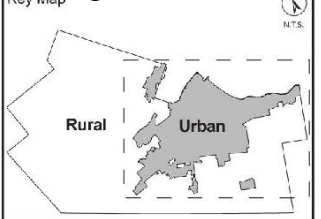
An implementing Zoning By-law and Site Plan Agreement will give effect to this

Amendment. This is Schedule “1” to By-Law No. 19-__, passed on the __ day of __,

2020.

Mayor

Clerk



Note: For Rural Site Specific Areas, refer to Volume 3, Appendix A of the Rural Hamilton Official Plan.

Appendix A
Amendment No.
to the Urban Hamilton Official Plan

● Identifying the lands located at 73-89 Stone Church Road West & 1029 West 5th Street, as UHN-_____.

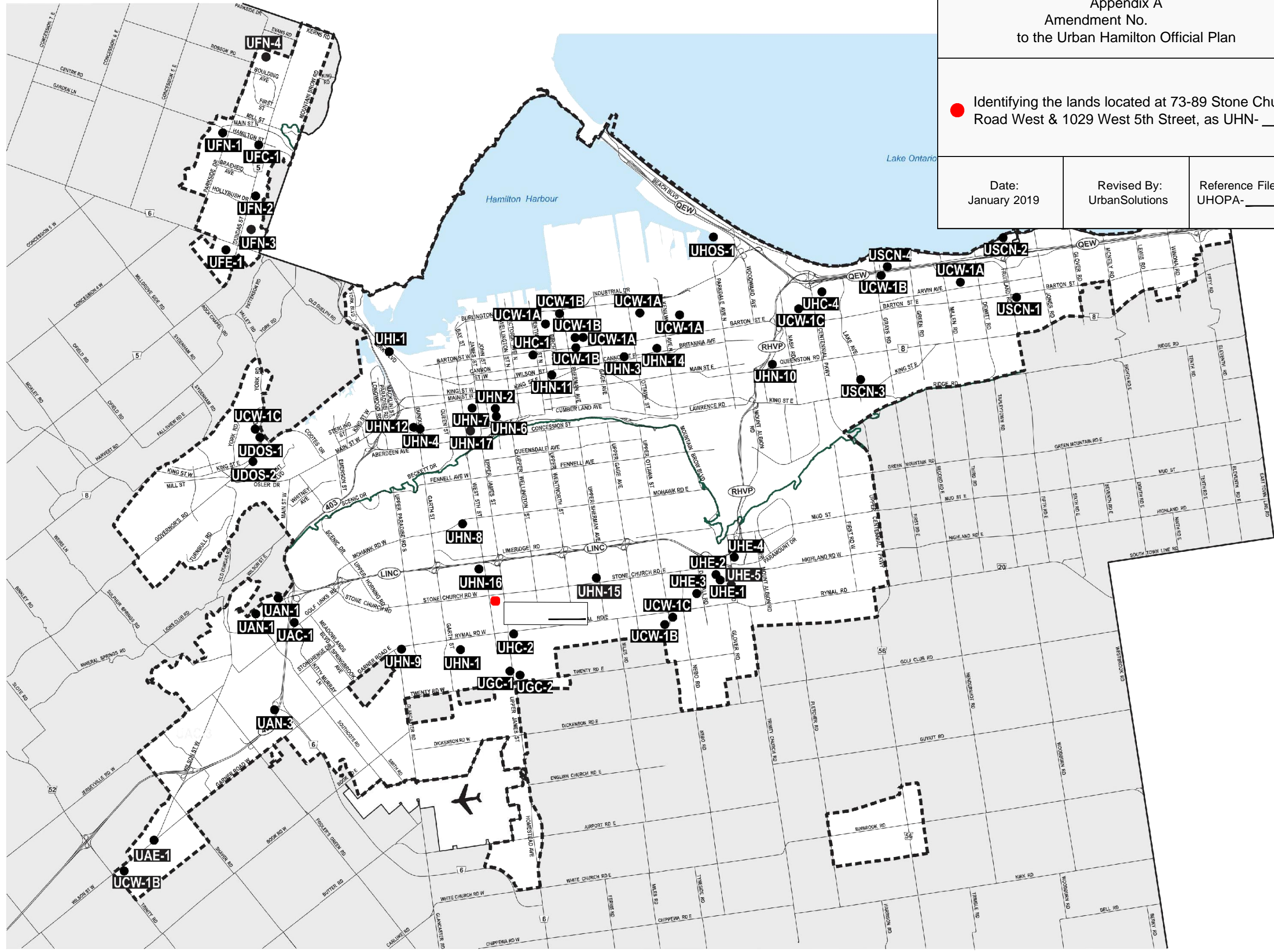
Date:
January 2019

Revised By:
UrbanSolutions

Reference File No:
UHOPA-_____

APPEAL

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the Red Hill Business Park to Upper James Street remains under appeal – see illustration on Schedules E and E-1, Volume 1



Legend

- Site Specific Areas (SSA)
- U- Refers to Urban Site Specific Area #, Volume 3, Chapter B

Other Features

- Rural Area
- John C. Munro Hamilton International Airport
- Niagara Escarpment
- Urban Boundary
- Municipal Boundary

Council Adoption: July 9, 2009
Ministerial Approval: March 16, 2011
Effective Date: August 16, 2013

Urban Hamilton Official Plan
Volume 3: Map 2
Urban Site Specific Key Map



Not To Scale



APPENDIX 3

CITY OF

HAMILTON

BY-LAW NO. -

To Amend Zoning By-law No. 6593, Respecting Lands Located at 73-89 Stone Church Road West and 1029 West 5th Street, in the City of Hamilton

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1st, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as “The Corporation of the City of Hamilton” and is the successor of the former Regional Municipality, namely “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-law and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 6593 (Hamilton) was enacted on the 25th day of July 1950, which was approved by the Ontario Municipal Board by Order dated the 7th date of December 1951, (File. No. O.F. C. 3821);

AND WHEREAS the Ontario Land Tribunal heard an appeal relating to this proposed By-law at a hearing conducted between October 18 and 21, 2021, and for the reasons set out in the Decision and Order issued by the Tribunal on _____, allowed the appeal and ordered that Zoning By-law No. 6593 be amended by this By-Law as it was approved by the Tribunal as Attachment 3 to its Decision and Order;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. ___ of the District Maps as amended to and forming part of By-law No. 6593 (Hamilton), is amended as follows by changing the zoning from the “DE-2/S-1700” (Multiple Dwellings) District, Modified, “C” (Urban Protected Residential) District, and “AA” (Agricultural) District to the “DE-2/S-___” (Multiple Dwellings) District, Modified, on the lands the extent and boundaries of which are more particularly shown on Schedule “A” annexed hereto and forming part of this By-law.
2. That the “DE-2” (Multiple Dwelling) District regulations, as contained in Section 10B, are modified to include the following special requirements:
 - a. Notwithstanding Section 10B(2), no building or structure shall exceed 9 storeys or 29.0 metres in height.
 - b. Notwithstanding Section 10B(3)(i), a minimum front yard of 2.0 metres for the first 3 storeys, a minimum front yard of 6.5 metres shall be provided for all storeys above the 3rd storey, and a minimum front yard of 0.8 metres shall be provided for the portion of the building below grade.

- c. Notwithstanding Section 10B(3)(ii), a minimum interior side yard of 4.5 metres shall be provided and maintained for the portion of the building above grade, and a minimum interior side yard of 2.4 metres shall be provided and maintained for the portion of the building below grade.
- d. A minimum flankage yard of 3.5 metres shall be provided and maintained for the portion of the building above grade, and a minimum flankage yard of 1.0 metre shall be provided and maintained for the portion of the building below grade.
- e. Notwithstanding Section 10B(3)(iii), a minimum rear yard of 15.2 metres shall be provided and maintained for the portion of the building above grade, and a minimum rear yard of 0.8 metres shall be provided and maintained for the portion of the building below grade.
- f. Sections 10B(5) and 10B(6) shall not apply.
- g. Notwithstanding Section 18A(1)(a) and 18A(1)(b) and Tables 1 and 2, 1.0 parking space per dwelling unit shall be provided and maintained.
- h. Notwithstanding Section 18A(1)(c) and Table 3, one loading space 3.0 metres wide and 13.9 metres long shall be provided.
- i. Notwithstanding Section 18A(7), parking space sizes shall be 2.8 metres wide and 5.8 metres long.
- j. Notwithstanding Subsection 2(g) herein, the minimum parking space size of not more than 10% of the required parking spaces shall be a width of 2.6 metres and a length of 5.5 metres, provided that any such parking space is clearly identified as being reserved for the parking of small cars only.
- k. Notwithstanding Section 18A(11), the boundary of every parking area and loading space on a lot containing five or more parking spaces located on the surface of a lot adjoining a residential district shall be fixed not less than 0.9 metres from the adjoining residential district boundary.
- l. Notwithstanding Section 18(3)(vi)(b), a canopy may project into a required flankage yard.

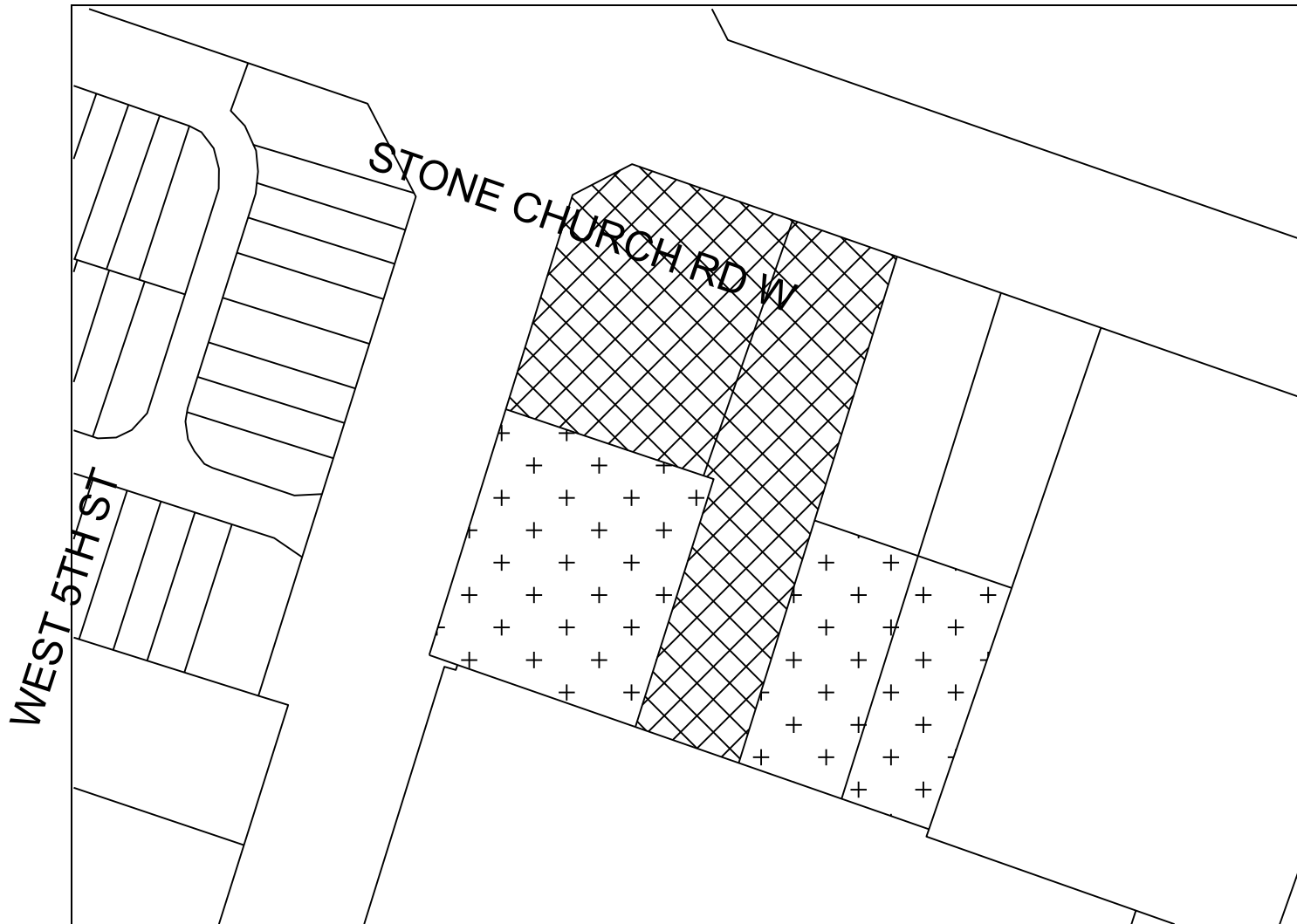
m. Notwithstanding Section 18(3)(vi)(e), a terrace, uncovered porch, or platform which does not extend more than 1.0 metres above the floor level of the first storey, may project into a required yard.

n. An ornamental feature may project into a required flankage yard.

3. The By-law No. 6593 is amended by adding this by-law to Section _____ as Schedule __;

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

PASSED AND ENACTED this _____ day of _____, 2021.



This is Schedule "A" to By-law No. _____ Passed the _____ day of _____, 2020	_____ Clerk _____ Mayor
<h2 style="margin: 0;">DRAFT Schedule "A"</h2> <p style="margin: 5px 0;">Map Forming part of By-law No. No. +</p> <p style="margin: 5px 0;">_____ to Amend By-law No. 6593</p>	<p>Subject Property 73-89 Stone Church Road West and 1029 West 5th Street.</p> <p>Block 1 - change in zoning from "AA" to "DE-2/S- _____"</p> <p>Block 2 - change in zoning from "DE-2/S-1700" to "DE-2/S- _____"</p> <p>Block 3 - change in zoning from "C" to "DE-2/S- _____"</p>
Scale: N.T.S. Date: _____	File Name/Number: _____ Planner/Technician: _____
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	

APPENDIX 4

73-89 Stone Church Road West & 1029

West 5th Street Proposed
Conditions of Site Plan Approval

1. SITE PLAN

1. (a) To develop and maintain the site in compliance with the Site Plan, dated July 16, 2020 attached hereto and hereinafter referred to as the "Site Plan". Minor changes to the Site Plan or condition(s) shall be permitted only upon written approval from the City's Manager of Development Planning, Heritage and Design.

Site Plan and Underground Parking Plan

1. (b) To develop and maintain the site in compliance with the Site Plan and underground parking plan, attached hereto each of which is dated and hereinafter collectively referred to as the "Site Plan". Minor changes to the Site Plan or conditions shall be permitted only upon written approval from the City's Manager of Development Planning, Heritage and Design.

Approval Limitation

1. (c) That, in the event a building permit for the proposed development has not been issued within one

(1) year from the date of site plan approval, the approval shall lapse. Prior to the approval lapsing, a request for an extension for a period up to, but not exceeding a one (1) year period, may be made directly to the Manager of Development Planning, Heritage and Design, with written justification and the required fee. The Manager of Development Planning, Heritage and Design will consider the request in light of current requirements and:

- i) May deny the request;
- ii) May grant the request; or
- iii) May grant the request with revisions or additional conditions.

Ground Cover to Prevent Soil Erosion

1. (d) Where the construction or demolition of a building, or buildings, or site development works are, in the opinion of the City's Director of Building Services, substantially suspended or discontinued for more than 45 days the Owner shall forthwith provide suitable ground cover to prevent soil erosion by wind, rain and snow for the protection of adjoining lands to the satisfaction of the said Director

Garbage Collection

1. (e) The Owner acknowledges that garbage collection for the proposed development shall be in accordance with the applicable Municipal By-Law.

2. PRIOR TO ***THE*** ***APPLICATION*** ***FOR ANY*** ***BUILDING*** ***PERMITS*** ***Erosion and*** ***Siltation*** ***Control***

2. (a) To show all erosion and siltation control features in detail on a Grading and Drainage Control Plan hereinafter described in Section 3(b); to the satisfaction of the Manager of Development Engineering Approvals; and to implement all such erosion and siltation control measures. The Owner further agrees to maintain all such measures to the satisfaction of the Manager of Development Engineering Approvals

until the site has been fully developed as determined by the Manager of Development Planning, Heritage and Design.

Tree Management

2. (b) To prepare a Tree Preservation/Enhancement Plan as part of the required Landscape Plan hereinafter described in Section 3(e), showing the location of drip lines, edges and existing plantings, the location of all existing trees and the method to be employed in retaining trees required to be protected; to obtain approval thereof from the Manager of Development Planning, Heritage and Design; and to implement all approved tree savings measures. The implementation of the Plan shall include a Verification of Tree Protection Letter, prepared by a qualified professional and approved to the satisfaction of the Director of Planning and Chief Planner.

Building Elevations

2. (d) To submit six (6) copies of final building elevations and one (1) reduced 11" x 17" copy to the satisfaction of the Manager of Development Planning, Heritage and Design. Minor changes to the Building Elevations or condition(s) shall be permitted only upon written approval from the Manager of Development Planning, Heritage and Design.

Interior Garbage Storage/Outdoor Garbage Containers

2. (f) To show the following on the required Landscape Plan:

- i) The location of any vaults, central storage and collection areas, or other facilities for the storage of garbage and recyclable material, including those which may be internal to a proposed or existing building; or
- ii) The location of any outdoor garbage and recycling containers and details for a supporting concrete pad and, if required by the Manager of Development Planning, Heritage and Design, a roofed enclosure having a height sufficient to conceal the containers.

Cost Estimate and Letter of Credit

2. (g) i) To provide cost estimates for 100% of the total cost of all exterior on-site works to be done by the Owner. Such cost estimates shall be in a form satisfactory to the Manager of Development Planning, Heritage and Design; or be prepared in accordance with the Guides for estimating security requirements for landscaping and engineering.

- ii) Calculate the lump sum payment for exterior works using the City's Letter of Credit Policy to the satisfaction of the Manager of Development Planning, Heritage and Design.
- iii) To provide an irrevocable Letter of Credit to the Manager of Development Planning, Heritage and Design for 75% of the total cost of all on-site development works in a form satisfactory to Finance (Development Officer, Budget, Taxation and Policy) to be held by the City as security for the completion of the on-site development works required in this Agreement.

Alternatively, the owner may choose to provide a lump sum payment for on-site works in accordance with 2. (g) ii). above.

iv) The Letter of Credit shall be kept in force until the completion of the required site development works in conformity with the approved design and requirements, securities may be reduced in accordance with the City's Letter of Credit Policy. If the Letter of Credit is about to expire without renewal thereof and the works have not been completed in conformity with their

approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion unless the City Solicitor is provided with a renewal of the Letter of Credit forthwith.

v) In the event that the Owner fails to complete, to the satisfaction of the Manager of Development Planning, Heritage and Design, the required site development works in conformity with its approved design within the time required, then it is agreed by the Owner that the City, its employees, agents or contractors may, at the City's sole option and in addition to any other remedies that the City may have, enter on the lands and so complete the required site development works to the extent of monies received under the Letter of Credit. The cost of completion of such works shall be deducted from the monies obtained from the Letter of Credit. In the event that there is a surplus, the City shall pay it forthwith to the Owner. In the event that there are required site development works remaining to be completed, the City may exercise its authority under (Section 446 of the Municipal Act) to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes.

3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS

3. (a) Satisfy all pre-grading conditions set out in Section 2 above.

Grading and Drainage Control

3. (b) i) To prepare a detailed Grading and Drainage Control Plan showing drainage details for the subject property, abutting properties and public rights-of-way so as to ensure compatible drainage, and to show thereon all existing and proposed connections to the municipal storm sewer to provide for that drainage i.e. catch basins/leads etc. to the satisfaction of the Manager of Development Engineering Approvals.

ii) To pay a fee (current rate at time of payment +HST) for the final inspection all aboveground features, such as but not limited to, landscaping, drainage, roads, driveways, noise barriers/fencing, lighting, etc., to the satisfaction of the Manager of Development Engineering Approvals.

Storm Water Management Design

3. (c) To submit to the satisfaction of the Manager of Development Engineering Approvals detailed engineering design for storm water management or to receive from the said Manager an exemption from this requirement.

Road Widening

3. (d) To convey to the City, without cost and free of encumbrance, the road widening and/or daylighting triangles as indicated on the Site Plan to the satisfaction of the Manager of Development Engineering Approvals.

Landscape Plan

3. (e) To prepare a Landscape Plan showing planting and surfacing details for all areas not covered by buildings, structures, loading areas or parking areas; and to obtain approval thereof from the Manager of Development Planning, Heritage and Design.

Fencing/Visual Barriers

3. (f) To obtain approval of the details of all fencing and visual barriers as indicated on the Site Plan, from the City's Manager of Development Planning, Heritage and Design, as part of the approval of the Landscape Plan.

Boulevard Sodding

3. (g) To show on the required Landscape Plan, planting and surfacing details for the portion of all adjacent public property located between the sidewalks, curbs or streets and the Owner's property line so as to ensure a contiguous landscaped area between the public streets and the Owner's proposed development.

Site Lighting-Design

3. (i) To prepare a Site Lighting Plan, including lighting for any underground parking facilities, and to submit said plan with a signed certification from an Electrical Engineer stating that said plan complies with Section 3.9 "Lighting" of the City of Hamilton Site Plan Guidelines to the satisfaction of the Manager of Development Planning, Heritage and Design.

Multiple Unit Identification Sign

3. (j) To prepare a concept plan for a multiple unit identification sign for emergency access or for a multiple unit development that shows unit numbers and to obtain approval thereof from the Manager of Development Planning, Heritage and Design.

Site Servicing Plan

3. (k) i) To submit to the Manager of Development Engineering Approvals a satisfactory Site Servicing Plan and pay the applicable drawing review fee based on the approved User Fees Schedule for the year that the Servicing Plans are submitted for review.

ii) To pay for and obtain the required Site Servicing Permits, the cost of which will be calculated based on the approved servicing design

Cash-in-Lieu of Parkland

3. (n) To pay to the City of Hamilton Park Trust Fund Account the required cash-in-lieu of parkland contribution based on the value of the lands the day before the issuance of a Building Permit to the satisfaction of the Director of Building.

Development Charges

3. (o) To pay to the City of Hamilton all applicable Development Charges in accordance with the Development Charges By-law, as amended, to the satisfaction of the Director of Building.

Site Plan Drawing and Underground Parking Plan

3. (p) To submit six (6) copies of the final site plan drawing and one (1) reduced 11" x 17" copy to the satisfaction of the Manager of Development Planning, Heritage and Design.

Taxes

3. (q) To submit proof from the Taxation Division that the Municipal Taxes are current on the subject lands to the satisfaction of the Manager of Development Planning, Heritage and Design.

Tariff of Fees

3. (r) To pay to the City of Hamilton the applicable additional charges as per the Tariff of Fees By-law for the proposed development type as follows:

- i) Residential - \$957.00/unit for the first 10 units and \$575.00/unit for units 11 to a maximum of 50 units to the satisfaction of the Manager of Development Planning, Heritage and Design.
- ii) Commercial - \$8.15/m² of new gross floor area to a maximum of 50,000m² to the satisfaction of the Manager of Development Planning, Heritage and Design.

Wastewater Assessment

3. (s) To submit a wastewater generation assessment to the satisfaction of the City of Hamilton Public Works Department using Part 8 of the latest edition of the Code and Guide for Sewage Systems to establish an updated equivalent population density.

Water Service Assessment

3. (t) To submit a water service assessment to the satisfaction of the City Public Works Department which tabularizes the expected occupancy and provides a water demand estimation and needed fire flow calculation based on the "Water Supply for Public Protection, Fire Underwriters Survey, 1999".

Storm Drainage Area Plan

3. (u) To submit a storm drainage area plan that clearly illustrates the extent of the property which will contribute surface water and ground water by direct connection to the existing systems. The plan must also illustrate where runoff from the remainder of the subject property if applicable, will be directed and/or collected. Appropriate runoff coefficients are to be assigned for the consideration and records of the Public Works Department.

Construction Management Plan

3. (v) To prepare a Construction Management Plan that provides details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc. The plan must identify any required sidewalk and/or lane closures and the estimated length of time for such closure(s). Details on heavy truck routing must also be included. The plan must be submitted to the satisfaction of the Director of Engineering Services, Public Works.

4. PRIOR TO OCCUPANCY

Prior to occupancy of the proposed development the Owner agrees to fulfill each of the conditions which follow:

Driveway Closure

4. (a) To complete the closure of all redundant driveways to the City's or Ministry of Transportation's standards.

Driveway Installation

4. (b) To install, at the Owner's cost and to the City's or Ministry of Transportation's standards, new driveway ramps at grade with the (existing, proposed or future) sidewalk. That the Owner must apply for and receive an Access Permit from the Public Works Department or the Ministry of Transportation.

Relocation of Municipal and/or Public Utilities

4. (c) That the relocation of any Municipal and/or Public Utilities, such as but not limited to, street furniture, transit shelters, signs, hydrants, utility poles, transformers, communication pedestals, wires or lines, required due to the location of buildings, structures, walkways, boulevards, driveways, curbing or parking, be arranged and carried out at the Owner's cost, to the satisfaction of the appropriate City Department or Public Utilities.

Emergency/Fire Routes

4. (d) That any required "Emergency/Fire Routes" shall be established by the Director of Building and that such signage shall be installed at the Owner's cost and to the satisfaction of the Director of Building.

Traffic Control Signs

4. (e) To install, at the Owner's cost, all required traffic signs, including directional, visitor parking and barrier-free parking signs, to the satisfaction of the Senior Project Manager, Corridor Management, Public Works.

Fire Hydrant

4. (g) To install at the Owner's cost, any fire hydrant required by the Ontario Building Code as directed by the Director of Building.

Site Servicing

4. (h) To complete site servicing to the satisfaction of the Manager of Development Engineering Approvals.

5. WITHIN ONE YEAR OF OCCUPANCY (PRIOR TO RELEASE OF CREDIT)***Grading and Drainage Completion***

5. (a) To complete the site grading and drainage scheme in accordance with the Grading and Drainage Control Plan approval.

Storm Water Management Implementation

5. (b) To complete any storm water management scheme and all related drainage control facilities in accordance with the approval Plan.

Tree Management

5. (c) To complete the tree management requirements for the lands in accordance with the approved Tree Preservation/Enhancement Plan.

Landscape Completion

5. (d) To complete the landscaping in accordance with the approved Landscape Plan.

Interior Garbage Storage/Outdoor Garbage Container Installation

5. (e) To install or demarcate on-site any vaults, central storage and collection areas, or other facilities for the storage of garbage and recyclable material, in accordance with the approved Landscape Plan.

Curb Installation

5. (h) To install 0.15 metre raised curbing in the locations shown on the Site Plan.

Site Lighting Installation

5. (i) To implement the approved Site Lighting Plan.

Paving

5. (j) To pave all areas intended to facilitate on-site vehicular movement, parking and loading, as shown on the Site Plan with hot-mixed asphalt or equivalent and to demarcate the parking on said surface.

Certification of Site Development Works

5. (k) To submit to the Director of Building, Site Development Works Certification Forms prepared by the appropriate consultants, certifying that the site development works required under this approval have been completed in accordance with the respective plans prepared by such consultant and accepted by the City.

In addition to the foregoing conditions, the following **special conditions** are also part of this approval:

PRIOR TO THE APPLICATION FOR ANY BUILDING PERMITS

1. That a Transportation Impact Study shall be submitted to the satisfaction and approval of the Manager of Transportation Planning.
2. That the Owner shall provide detailed turning paths, using site appropriate TAC

templates for garbage and large commercial vehicles, for ingress/egress to the loading space; and mitigation solutions to reversing of vehicles to/from the loading space to/from the municipal right-of-way; all to the satisfaction and approval of the Manager, Transportation Planning.

3. That the Owner submit a letter certifying the design of the parking garage ramps shall be required, to be provided and signed by a Licensed Architect or Engineer, to the satisfaction of the Manager, Transportation Planning.
4. That the Owner submits and receives approval of Shoring Plans prepared by a Licensed Professional Engineer showing the proposed shoring design and location of any existing municipal services and utilities within the municipal right-of-way as well as any existing adjacent privately-owned utilities, services and structures, all to the satisfaction of the Manager of Development Engineering Approvals.

5. That the Owner enters into with the City of Hamilton, a Shoring Agreement to address construction of the shoring system that will be required to build the underground parking facility, to the satisfaction of the Manager of Development Engineering Approvals.
6. That the Owner submit a Dust Management Plan to the satisfaction and approval of the Director of Health Protection.
7. That the owner / applicant shall submit and receive approval of a Pest Control Plan, focusing on rats and mice, for the construction / development phases of the project and continue until the project is complete. The Pest Control Plan should be submitted to the satisfaction of the Director of Health Protection.
8. That the Owner submit a payment of \$626.11 plus HST per tree for road allowance street trees, to the satisfaction of the Manager of Forestry and Horticulture.
9. That the Owner submits a list to the Growth Planning Section, indicating the mailing address unit number of each residential unit on each floor, to the satisfaction of the Senior Director of Growth Management. Upon receipt of the mailing address unit number list, an address will be assigned to the property, to the satisfaction of the Manager of Growth Planning.
10. That the Owner submit a clearance letter from the Ministry regarding the A Stage 1-2 archaeological report (P439-0039-2018) for 1029 West 5th Street shall be submitted when available.
11. That the Owner pay the outstanding Municipal Act Sewer amount of \$26,149.05 as at Aug. 31, 2021 (fee subject to change).
12. That the Owner submit a sufficient security deposit to the Growth Management Division to cover potential damage to any municipal infrastructure within the municipal right-of-way during construction (including but not limited to sidewalks, curbs, light poles, underground and aboveground utilities, etc.). If any significant reconstruction to the municipal right-of-way (as determined by the City) is proposed, the appellant will be required to enter into and register on title of the lands, an External Works Agreement with the City instead of submitting the abovementioned security deposit, all to the satisfaction of the City's Manager of Development Approvals.
13. That the owner submit a Watermain Hydraulic Analysis, identifying the modelled system pressures at pressure district (PD6) level under various boundary conditions

and demand scenarios if it cannot be demonstrated that there is adequate service for the proposed development within the existing municipal system based on hydrant tests, to the satisfaction of the City's Manager of Development Approvals.

14. That the owner submit a Vibration Study/Analysis by a Licensed Professional to assess the impacts of vibration on the surrounding lands and structures during construction of the shoring system as well as vibration monitoring and mitigation strategies, all to the satisfaction of the City's Manager of Development Approvals.

15. That the owner submit a Ground Settlement Study by a Licensed Professional to identify any potential ground/soil settlement and anticipated effects on the surrounding lands and structures which may arise as a result of any temporary groundwater dewatering during construction. Groundsettlement mitigation measures/strategies shall be discussed and identified in the study, to the satisfaction of the City's Manager of Development Approvals.

16. That the owner submits Geotechnical and Hydrogeological Brief conducted by a qualified professional (P.Eng, P.Geo) that discusses soil/groundwater conditions to properly characterize potential dewatering needs. This brief should discuss seasonal high groundwater levels, excavation depths, dewatering calculations (on a L/s and L/day basis), and if dewatering is required, groundwater quality sampling to compare against Sewer Use Bylaw criteria, all to the satisfaction of the City's Manager of Development Approvals.

ADDENDUM

As a special condition of site plan approval, **prior to Commencement of Any Grading on the Site**, the Owner:

- a. shall provide and receive approval of a preliminary design, fully at their expense, for a southbound left turn lane to the site access to West Fifth Street, to the satisfaction of the Manager, Transportation Planning;

- b. shall provide and receive approval of a final design, fully at their expense, for such southbound left turn lane, to the satisfaction of the Manager, Transportation Operations;

- c. shall receive approval of the engineering design submission to the satisfaction of the Director, Growth Management Division; and

- d. design and construct, fully at their expense, the southbound left turn lane to the site access to West Fifth Street, to the satisfaction of the Manager, Transportation Planning and the Director, Growth Management Division.

APPENDIX 5



1 NORTH ELEVATION



2 ELEVATIONS - NORTHWEST

PROPOSED PROJECT INFORMATION

PROJECT NAME: 1021 WEST 5th CONCEPT

CLIENT: KNYMH

DATE: 19075

SCALE: A400

NOT FOR CONSTRUCTION

KNYMH
ARCHITECTS

1021 WEST 5th
CONCEPT
HAMILTON, ON

ELEVATIONS

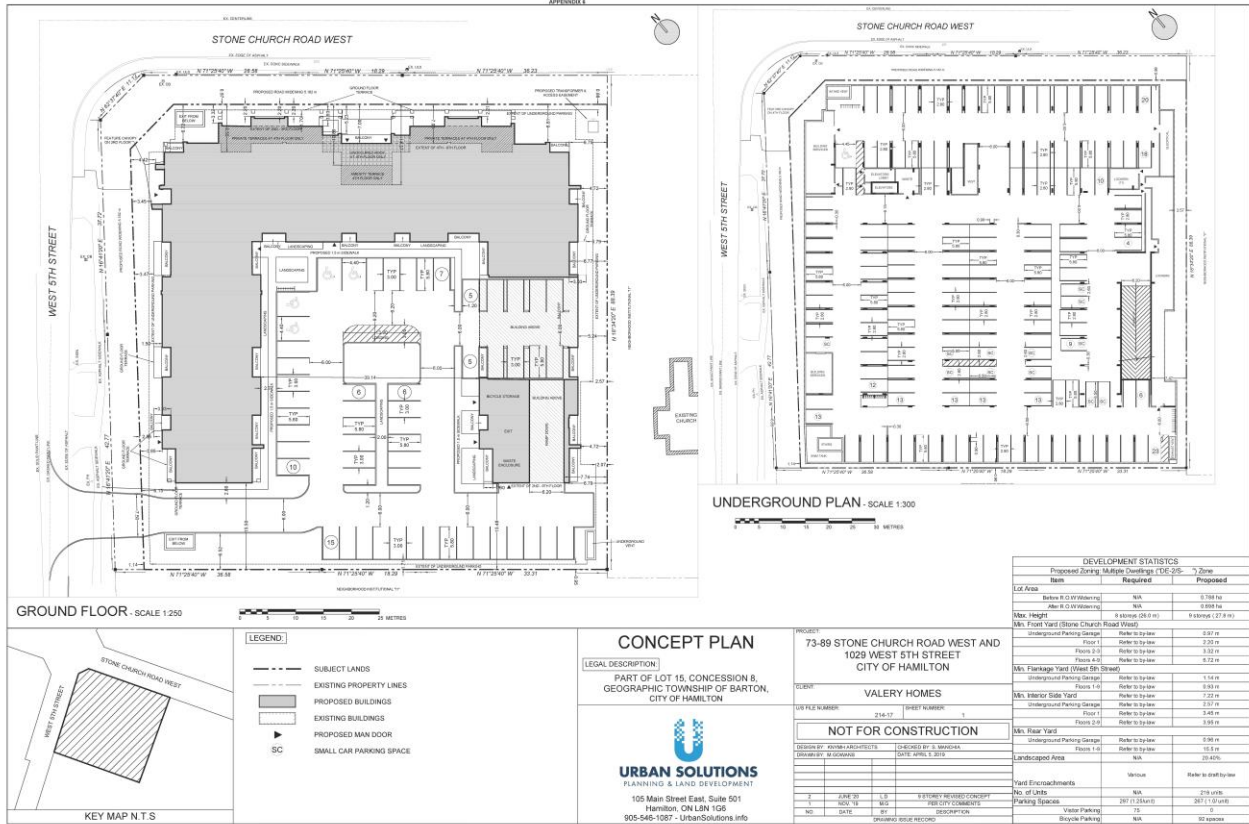
19075

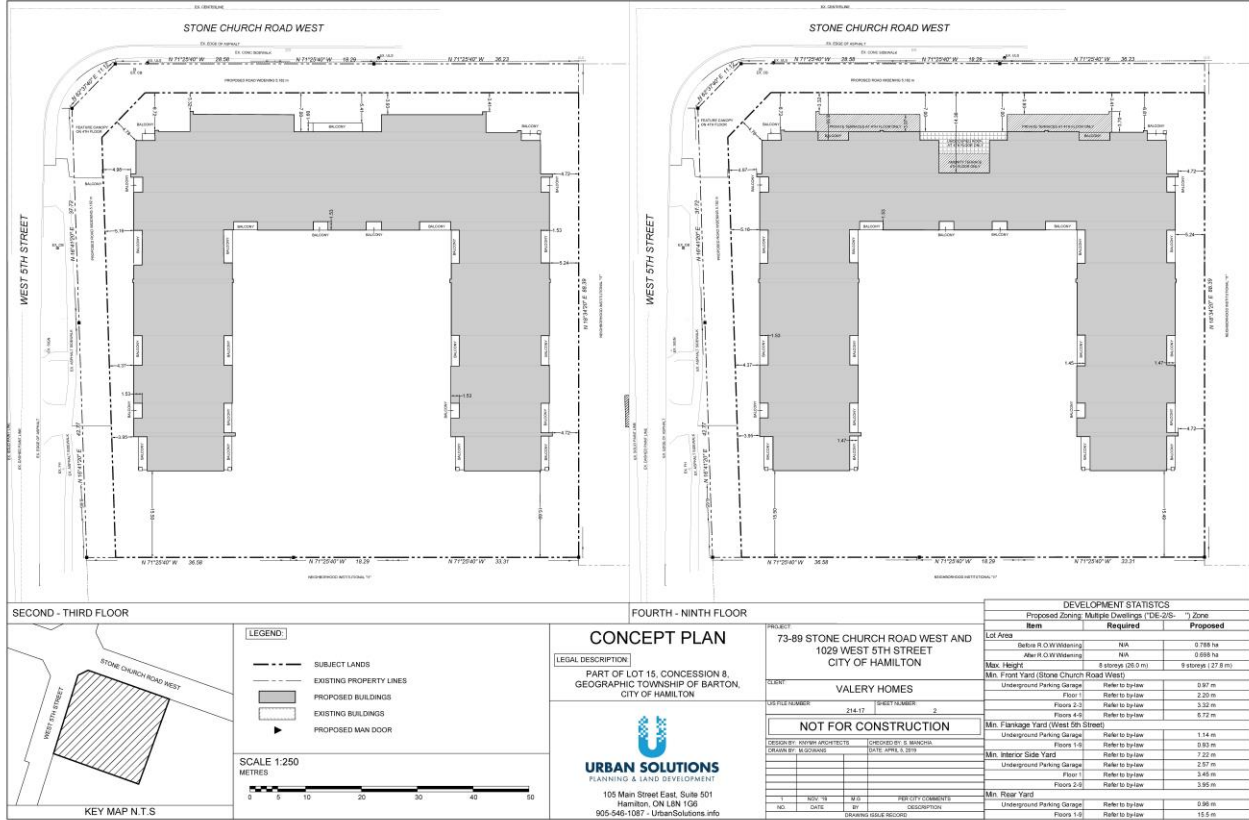
A400



This architectural drawing presents three elevation views of a multi-story building. The top view is the 'EAST ELEVATION', showing a facade with a central glass tower and a grid of windows. Below it are two interior elevations: 'INTERIOR EAST ELEVATION' and 'INTERIOR WEST ELEVATION', which show the building's structure from an internal perspective. The drawings include vertical grid lines labeled with letters (A through Z) and horizontal grid lines. A large 'NOT FOR CONSTRUCTION' watermark is overlaid on the right side of the elevations. To the right of the drawings is a title block containing project information, a professional seal for KNYMH Architects, and a table with the following data:

ELEVATIONS	
DATE	19075
NO.	A402





CONCEPT PLAN

LEGAL DESCRIPTION
 PART OF LOT 15, CONCESSION 8,
 GEOGRAPHIC TOWNSHIP OF BARTON,
 CITY OF HAMILTON



URBAN SOLUTIONS
 PLANNING & LAND DEVELOPMENT
 108 Main Street East, Suite 501
 Hamilton, ON L8N 1G6
 905-946-1087 - UrbanSolutions info

PROJECT: 73-89 STONE CHURCH ROAD WEST AND 1026 WEST 5TH STREET, CITY OF HAMILTON
 CLIENT: VALERY HOMES
 DATE: 214-17
 SHEET NUMBER: 2
NOT FOR CONSTRUCTION
 DESIGN BY: KIMBER ARCHITECTS CHECKED BY: S. BIRCHES
 DRAWN BY: M. GOSWAMI DATE: APRIL 6, 2016

DEVELOPMENT STATISTICS			
Proposed Zoning: Multiple Dwellings (D8-205) Zone			
Item	Required	Proposed	
Lot Area	N/A	0.788 ha	
Min. R O W (Municipal)	N/A	5.888 m	
Max. Height	8 stories (24.3 m)	9 stories (27.8 m)	
Min. Front Yard (Stone Church Road West)			
Underground Parking Garage	Refer to bylaw	0.87 m	
Floor 1	Refer to bylaw	2.20 m	
Floors 2-9	Refer to bylaw	3.32 m	
Floors 4-6	Refer to bylaw	6.12 m	
Min. Flankage Yard (West 5th Street)			
Underground Parking Garage	Refer to bylaw	1.14 m	
Floors 1-9	Refer to bylaw	3.93 m	
Min. Interior Side Yard			
Underground Parking Garage	Refer to bylaw	7.22 m	
Floors 1-9	Refer to bylaw	2.57 m	
Floors 2-9	Refer to bylaw	3.45 m	
Min. Rear Yard			
Underground Parking Garage	Refer to bylaw	0.86 m	
Floors 1-9	Refer to bylaw	15.5 m	

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 25, 2022

CASE NO(S).:

OLT-21-001127

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: King West Crossing Limited & DV Trillium Group Inc.
 Subject: Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment
 Existing Designation: 'Urban Corridor' on Schedule E - Urban Structure of the Urban Hamilton Official Plan ("UHOP") and 'Mixed Use - Medium Density' on Schedule E1 - Urban Land Use Designations
 Proposed Designated: Urban Site-Specific Area in the UHOP
 Description: To permit an additional 19 storeys atop the multiple dwelling building and an additional 2 storeys atop the hotel
 Property Address: 354 King Street West, Hamilton
 Municipality: City of Hamilton
 Municipality Reference No.: UHOPA-20-003
 OLT Lead Case No.: OLT-21-001127
 OLT Case No.: OLT-21-001127
 OLT Case Name: King West Crossing Limited & DV Trillium Group Inc. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: King West Crossing Limited & DV Trillium Group Inc.
 Subject: Application to amend Zoning By-law No. 05-200 - Neglect of the City of Hamilton to make a decision
 Existing Zoning: Transit Oriented Corridor Mixed Use Medium Density (TOC1) with exception 295
 Proposed Zoning: Site Specific Exemption
 Description: To permit an additional 19 storeys atop the multiple dwelling building and an additional 2 storeys atop the hotel
 Property Address: 354 King Street West, Hamilton

Municipality: City of Hamilton
Municipality Reference No.: ZAC-20-008
OLT Lead Case No.: OLT-21-001127
OLT Case No.: OLT-21-001128

Heard: January 12, 2022 by Video Hearing

APPEARANCES:

Parties

Counsel

King West Crossing Limited &
DV Trillium Group Inc.

Denise Baker

City of Hamilton

Patrick MacDonald

MEMORANDUM OF ORAL DECISION DELIVERED BY CARMINE TUCCI ON JANUARY 12, 2022 AND ORDER OF THE TRIBUNAL

[1] This is the first Case Management Conference (“CMC”) for this case.

[2] The purpose of the CMC was to receive status updates from both parties to organize the hearing of these appeals.

OVERVIEW

[3] The Applications sought to permit additional storeys atop the previous site plan, which approved a six (6) storey multiple dwelling and a ten (10) storey hotel to be constructed on 354 King Street West (“Subject Property”), in the City of Hamilton (“City”).

[4] Specifically, the Applications sought approval for an additional 19 storeys atop the multiple dwelling building and an additional two (2) storeys atop the hotel, bringing the total heights to 25 storeys (77.2 metres (“m”)) and 12 storeys (41.78 m), respectively, along with other modifications to the Zoning By-law regarding parking and modifications

to the minimum rear yard, interior side yard, principal entrance location, and driveway accesses.

[5] The additional storeys would facilitate the development of 236 more residential units and 28 additional hotel suites.

[6] On December 18, 2020, the Applications were amended to allow them to be considered in phases.

[7] The first phase dealt with the additional two storeys on the hotel portion of the Subject Property ("Phase 1"). The effect of the approval of Phase 1 of the Application would be to add a site-specific policy for a portion of the Subject Property to permit the maximum 12 storey building height for the hotel and to modify the Transit Oriented Corridor Mixed Use Medium Density (TOC1, 295) zone to deem the lot as one lot for zoning purposes, to permit a height of 41.78 m (12 storeys) and to reduce the required parking for a hotel use.

[8] The second phase of the Application deals with the additional 19 storeys atop the multiple dwelling to permit a total of 25 storeys and an additional 236 residential units ("Phase 2").

[9] On May 4, 2021, a recommendation report went forward to the City's Planning and Development Committee, which recommended the approval of the Phase 1 portion of the Applications, and the associated planning instruments.

[10] This recommendation was approved by Council on May 12, 2021 and the appeal period has since expired without any appeals having been filed.

[11] The amendments to the City's Official Plan and Zoning By-law for the Phase 1 portion of the Subject Property are now in force and effect.

[12] The Subject Property is designated 'Urban Corridor' on Schedule E - Urban Structure of the Urban Hamilton Official Plan ("UHOP") and 'Mixed Use - Medium Density' on Schedule E1 - Urban Land Use Designations.

[13] The Official Plan Amendment ("OPA") is required to establish an Urban Site-Specific Area in the UHOP to permit the total height of 25 storeys for the multiple dwelling building.

[14] The Subject Property is currently zoned 'Transit Oriented Corridor Mixed Use Medium Density (TOC1)' with exception 295 under the City Zoning By-law No. 05-200, as amended.

[15] The Zoning By-law Amendment ("ZBA") is required to create a site-specific exception for the Subject Property, which will amend the minimum required interior side yard setback, the minimum and maximum building heights, the minimum number of permitted vehicle accesses, a regulation related to the orientation of a principal building entrance, and parking requirement for the multiple dwelling.

NATURE OF THE APPEALS

[16] The City failed to make a decision on the Phase 2 Applications within the statutory time periods (120 days).

[17] The Tribunal heard through Denise Baker that she has requested a detailed Issues List from the City.

[18] The City has acknowledged the request and will submit an Issues List restricted to Land Use Planning and Design by February 11, 2022.

[19] Both Parties will be calling two witnesses each and have requested a five-day hearing. The Tribunal received a Participant status application from Wayne MacPhail. Mr. MacPhail represents a neighbourhood group named Strathcona Shadow Dwellers.

[20] The Tribunal canvassed both Counsel for King West Crossing Limited & DV Trillium Group Inc. (the “Applicant/Appellant”) and Counsel for the City, there were no objections to the granting of Participant Status to Mr. MacPhail.

[21] The Tribunal granted Participant Status to Mr. MacPhail.

[22] Ms. Baker informed the Tribunal that she will complete and submit an updated Procedural Order.

[23] The Tribunal hereby schedules a Video Hearing of these appeals on **Monday June 20, 2022**, commencing at **10 am**. Five (5) days has been set aside.

[24] Parties and participants are asked to log into the Video Hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/979388733>

Access code: 979-388-733

[25] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://www.gotomeeting.com) or a web application is available:

<https://app.gotomeeting.com/home.html>

[26] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **+ 1(647) 497-9373 or Toll Free 1(888) 299-1889**. The **access code** is **979-388-733**.

[27] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[28] No further notice will be given.

[29] The Member is seized.

[30] So Orders the Tribunal.

"Carmine Tucci"

CARMINE TUCCI
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 20, 2022

CASE NO(S):

PL171389

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Medallion Developments
Subject:	Application to amend Zoning By-law No. 6593 - Refusal or neglect of the City of Hamilton to make a decision
Existing Zoning:	E District (Multiple Dwellings, Lodges, Clubs, Etc.)
Proposed Zoning:	E-3 District, Modified (High Density Dwellings)
Purpose:	To permit the development of 20-storey rental apartment residential apartment addition
Property Address/Description:	195 Wellington Street South
Municipality:	City of Hamilton
Municipality File No.:	ZAC-14-003
OLT Case No.:	PL171389
OLT File No.:	PL171389
OLT Case Name:	Medallion Developments v. Hamilton (City)

Heard: December 8, 2021 by video hearing

APPEARANCES:

Parties

Medallion Developments
("Appellant")

City of Hamilton ("City")

Niagara Escarpment Commission
("NEC")

Counsel

Quinto Annibale
Brendan Ruddick

John R. Hart

Ken Hare

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. RUSSO ON
DECEMBER 8, 2021 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The matter before the Ontario Land Tribunal (the “Tribunal”) is with respect to the appeals filed under s. 34(11) of the *Planning Act* (the “Act”) as a result of the City of Hamilton (“City”) and their Council’s failure to make a decision on an application within the statutory timeframe specified by the Act. The lands subject to the appeal are municipally known as 195 Wellington Street South (the “Subject Site”).

[2] The Parties have settled and worked through previously contested issues and thus a settlement hearing has been scheduled before the Tribunal.

Description of Subject Site and Surrounding Context

[3] The Subject Site is located at the northeast corner of Wellington Street South and Charlton Avenue East and falls within an area in the City referred to as the Stinson Neighbourhood. The Subject Site has a total area of approximately 0.82 hectares (8,232 square metres (“m²”)) and frontages of 70 metres (“m”) on Wellington Street South, and 78 m on Charlton Avenue East.

[4] The Subject Site is currently occupied by a 3-storey U-shaped rental apartment building (the “Existing Building”), with a large surface parking lot located within a central courtyard extending to the north property line, and accessed by a driveway located at the northwest corner of the Subject Site. The Existing Building, which was built in 1939, currently contains 142 residential rental units (31 bachelor units, 73 one-bedroom units and 38 two-bedroom units).

[5] Directly north of the Subject Site is the Escarpment Rail Trail, which extends from Ferguson Avenue South, through Corktown Park, and east throughout the Niagara Escarpment to Albion Falls. To the immediate north of the Escarpment Rail Trail is the CNR rail tracks.

Proposal Background

[6] On February 3, 2014 an application (the "Initial Proposal") filed with the City contemplated the infill development of 216 residential units within a new 20-storey tower and the retention of the majority of the Existing Building on the Subject Site. The proposed tower was located at the northeast quadrant of the Subject Site, and would have necessitated the demolition of 32 rental units within a portion of the Existing Building (including 5 studio units, 18 one-bedroom units and 2 two-bedroom units) resulting in a total of 326 new and existing units on the Subject Site.

[7] The 20-storey building (59 m in height, 64 m including the mechanical penthouse) contemplated in the Initial Proposal was to be comprised of an 18-storey tower atop a 2-storey podium. The tower had a floorplate of 892 m² excluding balconies, and the new building had a proposed Gross Floor Area ("GFA") of 16,734 m². The GFA of the retained portion of the Existing Building was 7,349 m², resulting in a combined GFA of 24,083 m² and an overall site density of 2.93 Floor Space Index ("FSI").

[8] In the Initial Proposal, vehicle parking for the Subject Site was comprised of 154 indoor parking spaces provided in a single level of underground parking, as well as on the ground floor and second level of the new building, and 69 surface parking spaces. Overall a total of 223 parking spaces were proposed, resulting in a parking rate of 0.68 parking spaces per residential unit.

[9] The Initial Proposal was reviewed by City staff, as well as staff at the NEC and other external commenting agencies. As a result, a number of changes were incorporated into the Initial Proposal, particularly with respect to building height. These changes were made in response to the public agency concerns related to the visual impact of the proposed tower on views of the Niagara Escarpment. Re-submissions of materials in support of moderately revised versions of the development proposal were filed in November 2015 (height reduced to 19-storeys), September 2016 (height further reduced to 17-storeys) and February 2017 (height remained at 17-storeys but with further façade design revisions).

[10] On November 27, 2017, the Appellant appealed the Rezoning Application to the Tribunal. Numerous pre-hearing and case management conferences were held and a 10-Day in-person hearing of the merits was scheduled for June 15, 2020. As a result of the state of emergency declared by the Province of Ontario and cancellation of in-person hearing events by the Tribunal in response to the COVID-19 pandemic, the June 15, 2020 hearing was adjourned.

[11] Since that time, the Parties have held a number of meetings and have worked collaboratively in an effort to resolve the Appeal. As a result of these efforts, a settlement has been reached between the City, the NEC and the Appellant on the basis of a settlement proposal for a 9-storey mid-rise building addition to the Existing Building and additional Urban Design and technical matters the Parties have agreed to (the "Settlement Proposal").

Applicable Legislation and Policies

[12] Land use planning in Ontario is a policy-led system implemented in hierarchical fashion. This system is deliberately crafted to recognize that there cannot be a one-size fits all approach to implementing policy framework, given the diversity of Ontario's local communities. As such, the broader Provincial policies and objectives are to be

implemented by each municipality through their Official Plan (“OP”), Zoning By-laws, issue-specific guidelines, etc.

[13] Although the Parties have settled their issues, the Tribunal must still determine if the proposal meets provincial interests and municipal policy framework. In adjudicating the appeal, the Tribunal must have regard to matters of provincial interest enumerated in s. 2 of the Act. The Tribunal must be satisfied that the proposal is consistent with the Provincial Policy Statement, 2020 (the “PPS”) and pursuant to s. 3(5) of the Act. Further, the Tribunal must also find that the proposal conforms with policies of the provincial plan: A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the “Growth Plan”). The Subject Site falls within the jurisdiction and is subject to the Niagara Escarpment Plan (the “NEP”) and therefore the proposal must conform with its policies. Lastly the Tribunal must be satisfied with the proposal’s conformity with the City OP, and that it represents good land-use planning in the public interest.

THE HEARING

[14] The Tribunal affirmed Lindsay Dale-Harris. Provided in Exhibit 1 was her Acknowledgement of Expert’s Duty form and *Curriculum Vitae*. Having reviewed both and having heard *viva voce* her credentials with no objection, the Tribunal qualified Ms. Dale-Harris to provide opinion evidence in the field of land-use planning.

[15] Ms. Dale-Harris provided her *viva voce* testimony to the Tribunal but relied mainly on her written evidence found in:

- Exhibit 1 – Affidavit of L. Dale-Harris;

The witness also relied on and the Parties provided for the Tribunal’s consideration:

- Exhibit 2 – Niagara Escarpment Commission Letter; and

- Exhibit 3 – Proposed Zoning By-Law Amendment.

[16] Ms. Dale-Harris provided a brief history of the application and advised the Tribunal her firm had been retained by the Appellant in 2011. She highlighted as has been reviewed in the introduction/background of this decision, this proposal has a long history. She also advised the Tribunal that she was the author and prepared a Planning and Urban Design Rationale report (February 2014) provided in Exhibit 1.

[17] Ms. Dale-Harris advised the Tribunal that in advance of the hearing and as part of her retainer, she reviewed plans and statistics prepared in support of the Rezoning Application and Appeal, as well as supporting technical reports and drawings submitted over the course of the application review process. She has visited the Subject Site and the surrounding area, liaised with the Owner and the Appellant team, and met with City staff throughout the application review process. All these factors have led to her opinion on the matter.

The Planning Act

[18] Section 2 of the Act sets out matters of provincial interest for which planning authorities shall have regard to, among other matters, in carrying out their responsibilities to the legislation. Ms. Dale-Harris opined that the Settlement Proposal before the Tribunal has regard for these matters of provincial interest, in particular:

- the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems (f)
- the orderly development of safe and healthy communities (h);
- the adequate provision of a full range of housing, including affordable housing (j);
- the appropriate location of growth and development (p);
- the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians (q);
and
- the promotion of built form that is well designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant (r).

Provincial Policy Statement

[19] One of the key policy directions of the PPS is to build strong communities through the promotion of efficient land use and development patterns that support strong, liveable and healthy communities, protect the environment, and facilitate economic growth.

[20] Ms. Dale-Harris opined that the Proposal is consistent with s. 1.1.1 by:

- promoting efficient development and land use patterns which sustain the financial well-being of the Province and City over the long term;
- proposes an appropriate affordable and market-based range and mix of unit types in proximity to recreation, parks and open space, and other uses to meet long-term needs;
- promotes the integration of land use planning, growth management, transit supportive development, intensification and infrastructure planning to achieve cost effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;
- has ensured that necessary infrastructure and public service facilities are or will be available to meet current and projected needs.

[21] The Proposal, in Ms. Dale-Harris' opinion demonstrates and incorporates the above listed items within the development on the Subject Site, and thus is also consistent with s. 1.1.3.2, s. 1.1.3.4, s. 1.4.3 and 1.6.7.4.

[22] Ms. Dale-Harris referenced the Appellant's extensive experience and high standard of construction practices and well designed compact built form building. This combined and augmented by both transit supportive and active transportation options on the Subject Site and in the surrounding area, led Ms. Dale-Harris to opine that consideration for the environment is evident and woven into the development, highlighting consistency with s. 1.8.1.

[23] In concluding her evidence pertaining to the PPS, Ms. Dale-Harris provided her overall opinion that Settlement Proposal is consistent with the policies of the PPS.

The Growth Plan

[24] Similar to the PPS, the Growth Plan supports intensification within built-up urban areas, particularly in proximity to transit. In this respect, s. 2.2.1(2)(c), it directs that, within settlement areas, growth will be focused in delineated built-up areas, strategic growth areas and locations with existing or planned transit, with a priority on higher order transit where it exists or is planned.

[25] Ms. Dale-Harris opined the Proposal conforms with Policy 2.2.1(4), which provides policies that support the achievement of complete communities, which include and:

- Provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes (c);
- Expand convenient access to: a range of transportation options, including options for the safe, comfortable and convenient use of active transportation; an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities; and healthy, local, and affordable food options, including through urban agriculture (d);
- Provide for a more compact built form and a vibrant public realm, including public open spaces (e); and
- Mitigate and adapt to the impacts of a changing climate, improve resilience and reduce greenhouse gas emissions, and contribute to environment sustainability (f).

[26] Ms. Dale-Harris opined that the Proposal provides an appropriate intensification strategy conforming with s. 2.2.2(3), and the Subject Site falling just outside of the Downtown Hamilton Urban Growth Centre, as identified on Schedule 4 of the Growth

Plan (approximately 320 metres away) provides further justification for the density sought on the Subject Site. Policy 2.2.3(1) provides direction that, urban growth centres will be planned to, among other matters, to accommodate a significant share of population and employment growth by 2031, or earlier. Policy 2.2.3(2) indicates that the Downtown Hamilton Urban Growth Centre will be planned to achieve a minimum gross density target of 200 residents and jobs combined per hectare.

[27] The Tribunal was advised by Ms. Dale-Harris that the Subject Site is located approximately 700 m from the Hamilton GO Station and is therefore considered to be within a Major Transit Station Area. The Subject Site is also located approximately 650 m away from the Wellington stop of the planned and funded Hamilton Light Rail Transit (“LRT”) and is therefore within a second Major Transit Station Area. The Hamilton LRT line is identified as a Priority Transit Corridor on Schedule 5 of the Growth Plan.

[28] The above paragraph in Ms. Dale-Harris’ opinion demonstrates the Proposal’s conformity to s. 2.2.4(1), s. 2.2.4(3), s. 2.2.4(6), and s. 2.2.4(9), all transit related policies that reinforce the appropriateness of the development proposed on the Subject Site.

[29] With respect to housing, s. 2.2.6(1) requires municipalities to support housing choice through, the achievement of the minimum intensification and density targets by identifying a diverse range and mix of housing options and densities to meet projected and current needs. These are to be implemented through OP designations and zoning by-laws. Section 2.2.6(2) requires municipalities to support the achievement of complete communities by planning to achieve the minimum intensification targets and planning to diversify their overall housing stock across the municipality. In Ms. Dale-Harris’ opinion, the Proposal conforms the above policies.

[30] Climate Change policies are set out in s. 4.2.10 of the Growth Plan. Ms. Dale-Harris opined that similarly to the discussion had when reviewing this matter with the PPS, the Proposal addresses policy by proposing a compact built form development that supports the achievement of complete communities, as well as the minimum intensification and density targets of the Growth Plan, and reducing dependence on the automobile and supporting existing and planned transit and active transportation.

[31] Ms. Dale-Harris concluded discussion of the section with her opinion that the Settlement Proposal provides for a development which conforms with the Growth Plan.

Niagara Escarpment Plan

[32] The NEP covers 725 kilometres of land from Queenston on the Niagara River to the islands off Tobermory on the Bruce Peninsula.

[33] The Subject Site is subject to the NEP and its Urban Area provisions. As set out in s. 1.7 of the plan, the objective of the Urban Areas designation is to minimize the impact and further encroachment of urban growth on the Escarpment environment. Section 1.7.4 provides that “Changes to permitted uses, expansions and alterations of existing uses or the creation of new lots within the Urban Area designation will not require an amendment to the Niagara Escarpment Plan.”

[34] Ms. Dale-Harris opined that the Proposal conforms to all relevant policies of the NEP and highlighted for the Tribunal s. 1.7.4 of the plan, in which she opined the Proposal demonstrates the following:

- All development shall be of an urban design compatible with the scenic resources of the Escarpment. Where appropriate, provision for maximum heights, adequate setbacks, and screening are required to minimize the visual impact of urban development (1);
- Development within Urban Areas should encourage reduced energy consumption, improved air quality, reduced greenhouse

gas emissions (consistent with provincial reduction targets to 2030 and 2050) and work towards the long-term goal of low carbon communities, including net-zero communities and increased resilience to climate change, including through maximizing opportunities for the use of green infrastructure and appropriate low impact development (2);

- Development within Urban Areas shall not encroach into the Escarpment Natural, Escarpment Protection, Escarpment Rural or Mineral Resource Extraction Areas (4);
- Growth and development in Urban Areas shall be compatible with and provide for:
 - the protection of natural heritage features and functions;
 - the protection of hydrologic features and functions;
 - the protection of agricultural lands, including prime agricultural areas;
 - the conservation of cultural heritage resources, including features of interest to First Nation and Métis communities;
 - considerations for reductions in greenhouse gas emissions and improved resilience to the impacts of a changing climate;
 - sustainable use of water resources for ecological and servicing needs; and
 - compliance with the targets, criteria and recommendations of applicable water, wastewater and stormwater master plans, approved watershed planning and/or subwatershed plan in land use planning (9).

[35] Ms. Dale-Harris brought attention and emphasized that policy 4 in s. 2.3 reads:

[a]n expansion or enlargement of a building, structure or facility associated with an existing use shall be minor in proportion to the size and scale of the use, building or structure, including its related buildings and structures at the time it became an existing use as defined by this Plan. An expansion or enlargement of a building, structure or facility associated with an existing use will be considered minor where the expansion or enlargement is no more than 25 per cent of the original development footprint, **unless it can be demonstrated that a greater expansion or enlargement is compatible with the site and the surrounding landscape.** [emphasis added]

[36] Ms. Dale-Harris opined the Proposal has demonstrated compatibility with its surrounding area and her overall conclusion is that the Settlement Proposal conforms with relevant policies of the NEP.

[37] The NEC, an agency of the Provincial Government, entrusted to oversee the NEP and the protection of lands subject to the NEP provided a letter of opinion to the Tribunal on the matter (Exhibit 2).

[38] The NEC opinion letter and its author concurred with the opinions shared by Ms. Dale-Harris that the Settlement Proposal and revisions provided and before the Tribunal are consistent and conform with the NEP.

Urban Hamilton Official Plan

[39] The Urban Hamilton Official Plan 2009 (the “UHOP”) sets out a long-term vision for the physical development of the City for a 30-year period and replaces the former City UHOP (1982). As set out in s. A.1.2 of the UHOP, over the term of the UHOP, the City is expected to grow to over 660,000 residents and 300,000 jobs.

[40] The introductory text to s. B.2.4 of the UHOP, highlights that residential intensification is a key component of the City’s growth strategy and is essential to meet its population growth and employment targets. Policy B.2.4.1.1 provides that residential intensification shall be encouraged throughout the entire built-up area, in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.

[41] Policy B.2.4.1.4 sets out a series of criteria by which residential intensification developments shall be evaluated, including:

- a balanced evaluation of the criteria;
- the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
- the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

- the development's contribution to achieving the planned urban structure as described in Section E2.0 – Urban Structure;
- infrastructure and transportation capacity; and,
- the ability of the development to comply with all applicable policies.

[42] When considering an application for a residential intensification development within the Neighbourhoods area, s. B.2.4.2.2 directs that the following matters be evaluated:

- the matters listed in Policy B.2.4.1.4;
- compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic and other nuisance effects;
- the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- the considerations of transitions in height and density to adjacent residential buildings;
- the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- the ability to complement the existing functions of the neighbourhood;
- the conservation of cultural heritage resources; and,
- infrastructure and transportation capacity and impacts.

[43] Ms. Dale-Harris opined the Proposal has considered and implemented the above criteria in the Settlement Proposal before the Tribunal and in doing so conforms with these policies.

[44] Section B.3.2 of the UHOP sets out housing policies and goals to provide a range of housing types and establish complete communities (s. B.3.2.1.2). All while increasing the mix and range of housing types, forms, tenures, densities, affordability levels, and housing with supports throughout the urban area of the City (s. B.3.2.1.6).

[45] Sections B.3.2.5 deals with rental housing protection policies, and s. 3.2.5.6 as well as s.3.2.5.7 deal with demolition and redevelopment. Ms. Dale-Harris opined the Proposal has taken careful consideration of these policies and the Settlement Proposal seeks to increase, not decrease the total number of rental apartment units on the Subject Site and to improve the existing apartment complex which is over 80 years old. The 35 rental units which are proposed to be demolished to permit this redevelopment, will be replaced by new units on Subject Site, which will be built to current standards, and result in a net gain of 188 rental apartment units. Therefore, in Ms. Dale-Harris' opinion, s. 3.2.5.6 criteria does not apply to the Proposal.

[46] Further, and quite significant in Ms. Dale-Harris' opinion, is that the Appellant has agreed to address any issues related to the rehousing of tenants who are displaced due to the proposed demolition of the 35 rental units through a Tenant Relocation Plan that is to be prepared and implemented to the satisfaction of the City. This requirement is proposed to be implemented as a condition for lifting the Holding symbol on the zoning, ensuring compliance and in consideration of public interest.

[47] Providing her summary opinion on the Settlement Proposal's conformity with the UHOP, Ms. Dale-Harris opined that all relevant sections have been considered and the Proposal conforms overall with the UHOP. While again noting, the inclusion of the Holding symbol on the zoning is a mechanism that ensures conformity and protects the public interest.

Stinson Neighbourhood Plan

[48] Starting in the early 1970s, the City undertook neighbourhood planning exercises throughout the City in order to provide for future development of small areas or neighbourhoods. These neighbourhood plans exist for over 70 of the 137 neighbourhoods in the City and are intended to provide detailed information about land uses and policies relevant to that specific area. The Subject Site falls within the area referred to as the Stinson Neighbourhood. The original Stinson Neighbourhood Plan

(the “SNP”) was endorsed by Council on June 24, 1975. In 1998, it was replaced by a revised version that was endorsed by Council on June 30, 1998.

[49] The SNP was prepared by the Planning and Development Department in conjunction with the Stinson Neighbourhood Plan Advisory Committee. It provides a guide for future development and redevelopment in Stinson for the next 20-25 years. The executive summary points out that this plan is intended to be flexible, and can be modified to accommodate unanticipated changes, should they be considered appropriate.

[50] Ms. Dale-Harris opined that the Settlement Proposal conforms to the SNP and is inline and reflective of the neighbourhood character sought by the plan.

City of Hamilton Zoning By-law No. 6593

[51] The Subject Site is zoned “E” (Multiple Dwellings, Lodges, Clubs, etc.) District under City Zoning By-law No. 6593 (the “ZBL”). Permitted uses in the E District include a variety of residential, institutional, public and commercial uses, including a multiple dwelling.

[52] The Proposal seeks relief from provision 11(2)(ii) that limits the heights of buildings to 8 storeys or 26.0 m (85.3 feet), provision 11(3) which sets out a series of yard requirements, provision 11(5) which limits the Floor Area Ratio and from additional provisions (as noted in Exhibit 1, Affidavit of L. Dale-Harris). The Subject Site requires relief from these (some in part) limitations and thus the Zoning By-law Amendment (the “ZBLA”) was sought. In the opinion of Ms. Dale Harris, the Settlement Proposal and ZBLA before the Tribunal maintains the intent of the ZBL, and with its numerous revisions the Proposal has provided a balance of public interest and updated Provincial interest seen in the Act, PPS, Growth Plan and NEP.

[53] The City is in the process of developing a new comprehensive ZBL, ZBL No. 05-200, and is introducing this new by-law on a zone-by-zone basis. The new ZBL is not yet in effect as it relates to the Subject Site; however, Ms. Dale-Harris opined it nevertheless provides an indication of the direction that the City is moving towards in terms of zoning standards. Thus in her opinion is quite evident in numerous provisions that have been updated; however, she highlighted for the Tribunal the parking rate requirements and reductions that are aimed to decrease vehicular dependency and encourage public transit as well as active transportation options, are more inline with that being proposed in the Settlement Proposal than what currently exists.

Lindsay Dale-Harris' Concluding Opinions

[54] Ms. Dale-Harris concluded and summarized her opinions of the Settlement Proposal for the Tribunal and opined the Proposal represents good planning and urban design and that the proposed ZBLA is consistent with the PPS and conforms with the policies of the Growth Plan and the UHOP.

[55] She opined the proposed development of the Subject Site will result in residential intensification in a developed urban area that is well served by existing and planned municipal infrastructure, an objective supported by both provincial and municipal policy. The height, massing and siting of the proposed mid-rise building have been carefully considered to ensure the building will fit harmoniously into the surrounding built form context, while safeguarding views of the Escarpment, and providing additional rental housing opportunities.

[56] In closing, Ms. Dale-Harris recommended that the Rezoning as reflected in the Settlement Proposal and draft ZBLA be approved. She highlighted once again for the Tribunal, that the draft ZBLA includes an "H" Holding Symbol limiting the redevelopment of the Subject Site until specific removal conditions have been satisfied. The four conditions proposed to lift the Holding Symbol were provided for the Tribunal's

consideration and Ms. Dale-Harris recommended that they be included and are in her opinion appropriate to be imposed.

Decision and Disposition

[57] The Tribunal, having reviewed all evidence provided in Exhibits 1 – 3, and having heard the opinions of Ms. Dale-Harris, accepts the uncontroverted expert land-use planning evidence provided by the witness. The Tribunal finds that the proposed planning instruments, as it will permit the development have appropriate regard for matters of Provincial interest and s. 2 of the Act. The Tribunal also finds that the ZBLA is consistent with the PPS, conform to the GP, NEP, and the UHOP, as well as represent good land-use planning, and is in the public interest.

[58] The Tribunal, having been provided evidence and having heard from Ms. Dale-Harris her recommendation that the imposition of a Holding provision be included and removed pending the fulfilment of four conditions, concurs and finds its use to be appropriate and the conditions provided acceptable.

ORDER

[59] **THE TRIBUNAL ORDERS** that the appeal filed by Medallion Developments (the “Owner”) for the property known as 195 Wellington Street South, Hamilton, (the “Subject Property”) is hereby allowed in part.

[60] **THE TRIBUNAL FURTHER ORDERS** that the application for zoning by-law amendment filed in respect of the Subject Property is approved and City of Hamilton Zoning By-law No. 6593 is hereby amended in accordance with the Zoning By-law Amendment attached as Schedule “A”.

[61] **AND THE TRIBUNAL FURTHER ORDERS** that no costs shall be sought or paid by or to any party in respect of this matter. For further certainty, each party will bear its own legal and consulting costs in relation to this matter.

[62] The Member may be spoken to, at a time that is convenient to the Tribunal and the Parties, should any difficulties arise in finalizing the items set out in Schedule "A".

"M. Russo"

M. RUSSO
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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PL171389 – Schedule A**CITY OF HAMILTON
BY- LAW NO. 21-XX-OLT****To Amend Zoning By-law No. 6593
Respecting Lands Located at 195 Wellington Street South, Hamilton**

WHEREAS the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Schedule C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the *City of Hamilton Act, 1999* provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which By-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951 (File No. P.F.C. 3821);

AND WHEREAS the Ontario Land Tribunal, in its Decision/Order No. PL171389, dated the • day of •, 2021, approved the amendment to Zoning By-law No. 6593 (Hamilton), as herein provided.

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan of the City of Hamilton;

NOW THEREFORE the Ontario Land Tribunal enacts as follows:

1. That Sheet No. E-6 of the District maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), as amended, is further amended by changing the zoning from the “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District to the “E/S - 1815 - H” (Multiple Dwellings, Lodges, Clubs, Etc.) District, Modified, Holding, on the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”;
2. That the “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District provisions, as contained in Section 11 of Zoning By-law No. 6593 (Hamilton) be modified to include the following special requirements:

- a) Notwithstanding Section 2.(2)J.(ix), "Height" shall mean the vertical distance from sea level to the uppermost point of the building but not including any mechanical penthouse or any portion of a building designed, adapted or used for such features as a chimney, smokestack, fire wall, stair tower, fire tower, water tower, tank, elevator bulkhead, ventilator, skylight, cooling tower, derrick, conveyor, antenna, or any such requisite appurtenance, or a flagpole, display sign, ornamental figure, parapet, bell tower or other similar structure;
- b) Notwithstanding Section 2.(2)J.(xiii), "Lot-Line Front" shall mean the boundary line along Charlton Avenue East;
- c) Notwithstanding Section 11.(2) and 18.(2)(iii), the height of a building or structure shall not exceed nine storeys or 126.7 metres above sea level in height;
- d) Notwithstanding Section 11.(3), the following yards shall be provided and maintained:
 - i) Minimum Front Yard Depth: 3.0 metres;
 - ii) Minimum Side Yard Depth: 2.6 metres; and,
 - iii) Minimum Rear Yard Depth: 4.3 metres;
- e) In addition to 2) d) above, no minimum yard depth shall apply to a daylight triangle;
- f) Notwithstanding Section 11.(5), the permitted gross floor area shall be no greater than the area of the lot multiplied by the floor area ratio factor of 2.85;
- g) Notwithstanding Section 18.(3)(vi)(e), a terrace, uncovered porch, platform or ornamental feature which does not extend more than 1.0 metre above the floor level of the first storey, may project into a required yard up to 0 metres from a street line;
- h) Section 18.(8)(c)1. shall not apply;
- i) Notwithstanding Section 18A.(1)(a) and Table 1, a minimum of 0.56 parking spaces per Class A dwelling unit shall be provided;
- j) Section 18A.(1)(b) shall not apply;
- k) Notwithstanding Section 18A.(1)(c) and Table 3, one loading space shall be provided with a minimum size of:

- i) Length: 13.0 metres;
 - ii) Width: 4.0 metres; and,
 - iii) Height: 6.1 metres;
 - l) Notwithstanding Section 18A.(7), every required parking space located below ground shall have dimensions of not less than 2.8 metres wide and 5.8 metres long and every required parking space located above ground shall have dimensions of not less than 2.6 metres wide and 5.5 metres long;
3. That the 'H' symbol applicable to the lands referred to in Section 1 of this By-law, shall be removed conditional upon:
- a) The Holding Provision "E/S-1815-H" (Multiple Dwelling, Lodges, Clubs, etc.) District Modified, Holding be removed conditional upon:
 - i) The Owner submit, receive approval and implement a Functional Servicing Report to the satisfaction of the Manager of Development Engineering Approvals;
 - ii) The Owner submit, receive approval and implement a Storm Water Management Plan to the satisfaction of the Manager of Development Engineering Approvals; and,
 - iii) The Owner submit, receive approval and implement a Traffic Impact Study to the satisfaction of the Manager of Transportation Planning;
 - iv) That the Owner submit and implement a Tenant Relocation Plan once it has been approved by the City Solicitor, Ward Councillor and Director of Planning and Chief Planner.
4. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "E" (Multiple Dwellings, Lodges, Clubs, Etc.) District provisions, subject to the special requirements referred to in Section 2 of this By-law;
5. That Sheet No. E-6 of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as "E/S-1815-H";
6. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1815; and,

7. That this By-law No. 21-XX-OLT shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the *Planning Act*, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

APPROVED this • day of •, 2021.



<p>This is Schedule "A" to By-law No. 21-</p> <p>Passed the day of, 2021</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>
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<h2>Schedule "A"</h2> <p>Map forming Part of By-law No. 21-_____</p> <p>to Amend By-law No. 6593</p>	<p>Subject Property</p> <p>195 Wellington Street South</p> <p> Change in zoning from the "E" (Multiple Dwellings, Lodges and Clubs, etc.) District, to the "E/S-1815-H" (Multiple Dwellings, Lodges and Clubs, etc.) District, Modified, Holding</p>
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Scale: N.T.S	File Name/Number: ZAC-14-003
Date: September 20, 2021	Planner/Technician: SM/AL
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: December 23, 2021

CASE NO(S): PL210275

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Nelson Benevides
Applicant:	2691597 Ontario Inc.
Subject:	Minor Variance
Variance from By-law No.:	By-Law No. 6593
Property Address/Description:	11 Robert Street
Municipality:	City of Hamilton
Municipal File No.:	HM/A-21:35
OLT Case No.:	PL210275
OLT File No.:	PL210275
OLT Case Name:	Benevides v. Hamilton (City)

Heard: October 21 and 27, 2021 by video hearing

APPEARANCES:

Parties

Counsel

Nelson Benevides

A. Bouchelev

2691597 Ontario Inc.

N. Smith

DECISION DELIVERED BY HUGH S. WILKINS AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] On January 28, 2021, 2691597 Ontario Inc. (“Applicant”) applied to the City of Hamilton (“City”) Committee of Adjustment for variances to the City’s Zoning By-law No.

6593 (“Zoning By-law No. 6593”). The proposed variances are to facilitate the development of a six-storey mixed-use building with a ground floor commercial use and 28 dwelling units in the upper storeys at 9-11 Robert Street (“subject property”).

[2] The subject property has a frontage of 15.6 metres (“m”), is 39.3 m deep, and has an area of 616 square metres (“sq m”). Laneways abut the side and rear of the subject property. Presently, there is a vacant single-storey commercial building situated on the subject property.

[3] Under the Urban Hamilton Official Plan (UHOP), the subject property is identified as “Downtown Urban Growth Centre” (Schedule E– Urban Structure) and “Downtown Mixed Use Area” (Schedule E-1 – Urban Land Use Designations). Under the Downtown Hamilton Secondary Plan (“Downtown Secondary Plan”), the subject property is designated as “Downtown Mixed Use – Pedestrian Focus” and identified as “Low-rise 2”. It is zoned “H” District - Community Shopping and Commercial under Zoning By-law No. 6593.

[4] In 2018, the City adopted amendments to its Comprehensive Zoning By-law No. 05-200 (“Zoning By-law No. 05-200”) in order to implement modifications to the Downtown Secondary Plan. The Parties agree that the subject property was intended to be zoned “D2 – Downtown Mixed Use, Pedestrian Predominant Zone” (“D2”) under the new zoning. This specific zoning for the subject property was inadvertently left out when mapping for the new zoning by-law was conducted. The proposed development, including the requested variances, is permitted under D2 zoning.

[5] On January 12, 2021, the City granted conditional site plan approval for the proposed development. During the site plan approval process, the mapping error was identified by the City and brought to the Applicant’s attention. The mapping error was corrected through housekeeping zoning amendments in September 2021 (after this proceeding was commenced).

[6] The proposed variances relate to density, building height, setbacks, gross floor area, landscaping, parking, and loading spaces. The proposed variances would permit:

- a maximum of 28 dwelling units;
- a maximum building height of six storeys and 20.0 m;
- a minimum front yard depth of 2.5 m;
- a minimum rear yard depth of 2.6 m;
- a maximum gross floor area of 4.2 times the area of the lot;
- no planting strip to be required or maintained along the rear lot line and both the westerly and easterly side lot lines;
- no parking spaces, including no visitor parking, to be provided and maintained for the residential component; and,
- no loading spaces to be required.

[7] On March 4, 2021, the City's Committee of Adjustment granted the requested variances.

[8] On March 24, 2021, Nelson Benevides ("Appellant"), who owns property adjacent to the subject property, appealed the Committee of Adjustment's decision. The Appellant owns the laneway, which abuts the subject property to the east. This laneway is subject to a registered right-of-way in favour of the subject property.

[9] On October 21 and 27, 2021, the Tribunal heard the appeal by video hearing.

PRELIMINARY ISSUE

[10] At the commencement of the hearing, the Appellant submitted that with the recent passage of the housekeeping amendments to Zoning By-law No. 05-200 in September 2021, the Tribunal does not have the authority to adjudicate the appeal. He submitted that the subject property is now governed exclusively by Zoning By-law No. 05-200. The Appellant responded that the appeal was made regarding variances to

Zoning By-law No. 6593 and the passage of the amendments to Zoning By-law No. 05-200 does not remove the Tribunal's authority to adjudicate the appeal.

[11] Section 8(1) of the *Ontario Land Tribunal Act* gives the Tribunal exclusive jurisdiction in respect of all matters in which jurisdiction is conferred on it by statute. In the present case, s. 45(16) of the *Planning Act* confers jurisdiction on the Tribunal to hold a hearing and s. 45(18) sets out the powers of the Tribunal on the appeal. An applicant is entitled to have its application evaluated on the basis of the laws and policies as they existed on the date that the application was made. In this case, given the jurisdiction conferred on the Tribunal, the appeal in this proceeding relates to Zoning By-law No. 6593, which was the zoning that existed on the date that the Applicant's variance application was made. Section 2.1(1) of the *Planning Act* requires the Tribunal when making a decision on a planning matter under the *Planning Act* to have regard to any decision that is made under the Act by a municipal council or by the relevant approval authority (here - the City's Committee of Adjustment) that relates to the same planning matter as well as to any information and material that was considered in making the decision. In the present case, Zoning By-law No. 05-200 is a decision that was made under the Act by City Council that relates to the planning matter before the Tribunal. Based on s. 2.1(1), the Tribunal will have regard to Zoning By-law No. 05-200. However, the Tribunal emphasizes that the focus of the appeal is on Zoning By-law No. 6593 and the proposed variances to it.

CENTRAL ISSUES IN THE PROCEEDING

[12] The central issues in this proceeding are whether or not the proposed variances meet the four tests under s. 45(1) of the *Planning Act*. These tests are:

- do the proposed variances maintain the general purpose and intent of the Urban Hamilton Official Plan?
- do they maintain the general purpose and intent of Zoning By-law No. 6593?

- are they desirable for the appropriate use of the subject property?
- are they minor?

The proposed variances must also be consistent with the Provincial Policy Statement, 2020 (“PPS”) and conform with the Growth Plan for the Greater Golden Horseshoe, 2020 (“Growth Plan”). When making its decision, the Tribunal must have regard to the matters of provincial interest set out in s. 2 of the *Planning Act* and it must have regard to the decision of the Committee of Adjustment and the information considered by it. It also must have regard to Zoning By-law No. 05-200 as required under s. 2.1(1) of the *Planning Act*.

EVIDENCE, SUBMISSIONS, ANALYSIS AND FINDINGS

[13] James Webb is a land use planner who was retained by the Applicant. The Tribunal qualified him to provide opinion evidence in the area of land use planning. He provided oral testimony. The Applicant also filed with the Tribunal a witness statement written by Mr. Webb, dated October 8, 2021.

[14] Heather Travis is a land use planner employed by the City who was summoned by the Applicant to provide evidence. She provided fact evidence by oral testimony describing the mapping error and the passage of the housekeeping amendments to Zoning By-law No. 05-200.

[15] Terence Glover is a land use planner who was retained by the Appellant. The Tribunal qualified him to provide opinion evidence as an expert in land use planning. He provided oral testimony. The Appellant also filed an affidavit affirmed by Mr. Glover, dated October 15, 2021, and a Planning Issues Report, dated October 5, 2021.

[16] The Appellant, Mr. Benevides, provided fact evidence by means of oral testimony.

[17] Each of the identified central issues will be addressed below.

Issue 1 Do the proposed variances maintain the general purpose and intent of the Urban Hamilton Official Plan?

Applicant's Evidence and Submissions

[18] Mr. Webb opined that the proposed variances maintain the general purpose and intent of the Urban Hamilton Official Plan. He stated that the subject property is designated as "Downtown Mixed Use with a Pedestrian Predominant Overlay" in both the Official Plan and the City's Downtown Secondary Plan and mapped as "Low-Rise 2 Residential" in the Secondary Plan.

[19] Regarding the number of dwelling units, Mr. Webb stated that there is no policy in either the Urban Hamilton Official Plan or the Downtown Secondary Plan regulating density in the City's downtown area. He stated that the Urban Hamilton Official Plan's policies permit multiple dwelling-unit buildings and the Downtown Secondary Plan focusses on built form policies in order to achieve appropriate development. He said the Urban Hamilton Official Plan encourages a higher density form of housing in the area of the subject property, but states in its Volume 1, policy E.4.47, that height and density shall be set out in the Downtown Secondary Plan. He said the Downtown Secondary Plan aims to increase residential densities and revitalize the area. It does not include density restrictions for the areas designated as Downtown Mixed Use, including the subject property. Mr. Webb stated that medium density requirements in Urban Hamilton Official Plan, Volume 1, policies E.3.5.7 and E.3.5.8 do not apply to the area. Based on this, he opined that the proposed number of dwelling units is permitted. He also noted that D2 zoning under By-law No. 05-200 does not regulate density.

[20] Regarding the proposed height, Mr. Webb stated that the Downtown Secondary Plan allows for a six-storey building (such as that proposed by the Applicant) for the Low Rise 2 Height overlay area provided that criteria related to transition, built form, and

urban design are satisfied. He stated that those criteria are satisfied in the present case. He said there are several buildings of a similar height in the area and he opined that the proposed variances would facilitate a development that is compatible with the surrounding area and provide for appropriate transition. Mr. Webb stated that the proposed development was reviewed by the City's Design Review Panel, which generally supported the proposed massing and scale of the building. He also said that he conducted a shadow study for the proposed development, which found that the proposed development would satisfy the applicable requirements in the Downtown Secondary Plan.

[21] Regarding heritage issues, Mr. Webb stated that the Urban Hamilton Official Plan, Volume 1, policy B.3.4.2.12 states that a cultural heritage assessment shall be submitted where a proposed development has the potential to adversely affect neighbouring cultural heritage resources. He stated that the City's heritage staff reviewed the proposed variances and determined that based on the scale of the proposed development, there would be no adverse effects on neighbouring cultural heritage resources. He said staff found that the proposed development fits in with the heritage context of the area. He stated that the subject property is not in a cultural heritage overlay area and, in any event, the proposed transition from nearby heritage buildings to the proposed development is acceptable. He stated that requiring a cultural heritage assessment is left to the discretion of the City and the Applicant is not required to prove that an assessment is not needed. Mr. Webb stated that the design elements of the proposed development address cultural heritage concerns and are included in the conditional site plan approval for the proposed development.

[22] Regarding parking issues, Mr. Webb stated that the Urban Hamilton Official Plan, Volume 1, policy E.4.4.14 allows for reduced parking where higher order public transit services are available and amenities and services are located close by, such as in the present case. He said the subject property is 450 m from the West Harbour GO Station, which is a Higher Order Transit Station, and within a Major Transit Station Area. He

also stated that there are sidewalks, bike lanes, and other infrastructure for active transportation in the area.

[23] Regarding setback issues, Mr. Webb stated that the proposed variance is for a minimum front yard depth of 2.5, whereas the Zoning By-law requires 6 m. He said the Downtown Secondary Plan encourages the placement of buildings closer to the street line and to provide for an active and safe pedestrian environment. He said the proposed front yard variance does this by locating the proposed development closer to the street line and using design elements that will encourage pedestrian use and character through a patio, landscaping, and bicycle facilities. He also stated that with the abutting laneways, the other setbacks for the proposed development are appropriate.

Appellant's Evidence and Submissions

[24] Mr. Glover stated that the proposed variance does not maintain the general purpose and intent of the Urban Hamilton Official Plan. He said high density development is not permitted on the subject property and the proposed density would be uncharacteristic for the neighbourhood. He stated that the proposed development would have a far greater density than neighbouring properties. He said a medium density development would be more appropriate on the subject property.

[25] Regarding height issues, Mr. Glover stated that the proposed development would be taller than neighbouring structures, including several cultural heritage buildings. He said the nearby John Weir Foote VC Armoury, which is a national historic site, is a significant attraction in the area and that the proposed development would distract from it. He stated that Christ's Church Cathedral is located close by and the proposed development would be twice the height (or more) of this and other buildings in the area. He said a six-storey building is permitted under the Urban Hamilton Official Plan provided that certain criteria are satisfied, but the Applicant did not undertake sufficient studies to demonstrate that these criteria are met. He said the proposed height,

massing and density of the proposed redevelopment are not appropriate for the area and the proposed variances would result in the subject property being overbuilt. At the hearing, Mr. Glover acknowledged that many of his previous concerns regarding shadowing had now been addressed by Mr. Webb's shadow study.

[26] Regarding heritage issues, Mr. Glover stated that a cultural heritage assessment report is required under the Urban Hamilton Official Plan, Volume 1, policy B. 3.4.2.12. He said the subject property is in a neighbourhood that maintains a 19th Century character and it is not possible to determine whether there will be impacts to existing heritage resources without a cultural heritage assessment being done. He stated that City staff examined whether the existing building on the subject property has cultural heritage attributes, but he did not think that staff adequately looked at the impacts of the proposed development on adjacent heritage resources. He opined that the proposed variances would result in a development that does not fit within the existing neighbourhood character of the area.

[27] Regarding parking issues, Mr. Glover stated that the Urban Hamilton Official Plan, Volume 1, policy E.4.4.14 allows for reduced parking where higher order public transit services are available, but that does not mean zero parking. He stated that a parking study is needed.

Analysis and Findings

[28] The Tribunal finds that the proposed variances maintain the general purpose and intent of the Urban Hamilton Official Plan and the Downtown Secondary Plan. The subject property is in an area of the City's downtown that is designated as Downtown Urban Growth Centre and Downtown Mixed Use Area. These designations permit mixed use buildings, such as the proposed development. The proposed development is also permitted under the Downtown Hamilton Secondary Plan, which designates the subject property as Downtown Mixed Use – Pedestrian Focus.

[29] Regarding density issues, the Tribunal finds that, based on the Urban Hamilton Official Plan, Volume 1, policy E.4.4.7 and E.4.4.8 and the policies in the Downtown Secondary Plan, there are no specific density regulations for the subject property, but a higher density form of housing is encouraged. The Tribunal finds that the proposed density variance maintains the general purpose and intent of these policies.

[30] Regarding height issues, Map B.6.1.-2 (Maximum Building Heights) of the Downtown Secondary Plan identifies the subject property as within the Low Rise 2 category, which allows for six-storey buildings subject to certain criteria. These criteria are set out in Downtown Secondary Plan policy 6.1.4.6, which requires the evaluation of (a) compatibility with adjacent land uses; (b) transition in height to adjacent and existing buildings; (c) compatibility of height, massing, scale and arrangement of buildings and structures and sympathy to the character and heritage of the neighbourhood; and, d) the conservation of on-site and adjacent cultural heritage resources. Based on the evidence before the Tribunal, it finds that the proposed use is compatible with similar mixed uses in the area. It finds that there are buildings of a similar height in the area and the proposed transition in height is acceptable. It finds that the proposed height, massing, scale and arrangement of the proposed development is compatible with existing structures and, based on the reviews conducted by City's heritage staff, the applicable cultural heritage conservation requirements have been satisfied. The Tribunal finds that the proposed height variance maintains the purpose and intent of the Urban Hamilton Official Plan and the Downtown Secondary Plan.

[31] Regarding cultural heritage issues, the Tribunal finds that the City's heritage staff properly reviewed the proposed variances and their potential impacts, and, under Urban Hamilton Official Plan, Volume 1, policy B.3.4.2.12, staff determined that a cultural heritage assessment is not required for the proposed variances. The Tribunal notes that the City has the discretion to determine whether a cultural heritage assessment is required and that there was no compelling cultural heritage evidence provided by the Appellant to contradict the City staff's findings. The subject property is not in a cultural heritage overlay area, which would support the need for such an assessment. Based

on the evidence before it, the Tribunal finds that the proposed height variance will facilitate a development that is compatible with the surrounding heritage resources and provides for adequate transition from neighbouring buildings.

[32] Regarding the proposed parking variance, the Urban Hamilton Official Plan, Volume 1, policy E.2.3.1.16 states that reduced parking requirements shall be considered to encourage a broader range of uses and densities and to support transit. Policy E.4.4.14 states that reduced parking requirements shall be considered in recognition of the high level of transit service to the area designated Downtown Mixed Use. The Tribunal finds that the proposed parking variance maintains the purpose and intent of these policies.

[33] Regarding setbacks, the Tribunal notes that Urban Hamilton Official Plan, Volume 1, policy E.4.4.10 states that the Downtown Mixed Use Area shall be designed as a pedestrian focused area and that buildings are to be situated close to and oriented to the street. Based on Mr. Webb's evidence, the Tribunal finds that the proposed front yard setbacks will be compatible with the existing streetscape and, with the Applicant's proposed patio and bicycle facilities, will create a pedestrian and active transportation focused environment. It also finds that, with the abutting rear laneway, the proposed rear yard setback maintains the purpose and intent of the Urban Hamilton Official Plan and the Downtown Secondary Plan.

[34] Also, based on the evidence before it, the Tribunal finds that there are no requirements in the Urban Hamilton Official Plan or the Downtown Secondary Plan that conflict with the proposed gross floor area, planting strip, or loading space variances. In these regards, the Tribunal finds that the proposed variances maintain the general purpose and intent of the Urban Hamilton Official Plan and the Downtown Secondary Plan.

Issue 2 Do the proposed variances maintain the general purpose and intent of Zoning By-law No. 6593?

Applicant's Evidence and Submissions

[35] Mr. Webb opined that the proposed variances maintain the general purpose and intent of Zoning By-law No. 6593. He stated that when modifications to the Downtown Secondary Plan were passed, the subject property was intended to be zoned Downtown Mixed Use – Pedestrian Focus (D2) Zone. He stated that due to a mapping error, the subject property was not included in amendments to the zoning. He said all other relevant properties in the immediate area were included. He stated that, but for the mapping error, the proposed development would have been permitted under the new D2 Zone for the area. Ms. Travis supported Mr. Webb's evidence in this regard.

[36] Regarding density, height and gross floor area, Mr. Webb reiterated that the proposed variances would facilitate a development that achieves an appropriate scale with a mixed-use building providing commercial uses on the ground floor, residential uses above, and an appropriately scaled street wall. He stated that the proposed development would have a height of six storeys or 20 m, whereas Zoning By-law No. 6593 requires a maximum height of four storeys or 17 m. He stated that the proposed height would be compatible with existing buildings in the area. He stated that the proposed height is within the 45 degree angular plane for the street and would not result in undue shadow impacts. He also reiterated that his shadow study demonstrates that there would be no undue shadow impacts caused by the proposed development.

[37] Regarding parking spaces, Mr. Webb reiterated that there is public transit nearby, including buses and a GO Station, as well as local services and amenities. He stated that reduced parking variances have been permitted elsewhere in the City's downtown to facilitate intensification and where amenities, employment, and services are located close by, as in the present case. He noted that, based on the proposed unit

mix, on-site parking is not required under By-law No. 05-200 for the proposed development.

[38] Regarding setback issues, Mr. Webb reiterated that the proposed front yard setback variance is consistent with the front yard setbacks of existing neighbouring buildings. He reiterated that the proposed variance would facilitate the creation of a continuous street wall and a pedestrian environment. For the proposed rear yard setback, he stated that the proposed development's scale and massing are appropriate and there would be appropriate transition to neighbouring developments. He again said there would not be shadow issues.

[39] Regarding loading area requirements, Mr. Webb stated that loading will be facilitated at the rear of the proposed development for small deliveries. He stated that small trucks and vans will have the space and will be able to manoeuvre down the laneways beside the proposed development and access the area at the rear of the building. Regarding possible trespass issues with vehicles entering the Appellant's property, he said the Applicant is willing to construct a fence at the rear of the subject property to prevent such trespassing. He said street parking will be available for larger deliveries at the front of the proposed development. He stated that there is parking on Robert Street in front of the subject property, which is sufficient for loading. He said the Applicant has had discussions with the City to have that space made into a loading zone. He stated that such a change would have negligible impacts on parking in the area. He said that large vehicles, including garbage trucks and large moving vans, would need to load from the street. He noted Zoning By-law No. 05-200 does not require loading spaces for developments such as that proposed by the Applicant.

[40] Regarding permitted uses on the subject property, Mr. Webb stated that dwelling units are permitted on the subject property. He stated that the proposed variances would increase the number of permitted units and would not result in a change in use. He noted that the Urban Hamilton Official Plan and the Downtown Secondary Plan both

encourage intensification in the area. He noted that the proposed uses also are permitted under Zoning By-law No. 05-200.

Appellant's Evidence and Submissions

[41] Mr. Glover opined that the proposed variances do not maintain the purpose and intent of Zoning By-law No. 6593. He stated that the Applicant has provided insufficient information to determine whether there will be enough parking for the proposed development. He said no professional parking or traffic study was undertaken. He stated that residents of the proposed development may end up parking in the Appellant's laneway. He stated that the Applicant must provide proof that there will not be a parking problem before the variances are authorized. Mr. Benevides said there is insufficient parking in the area and people often illegally park in his laneway and on his property. He expressed concern that snow removal from the subject property could end up pushing snow on to his property.

[42] Regarding loading, Mr. Glover stated that there is insufficient space at the rear of the subject property for loading. He said that given the narrow laneways surrounding the subject property, there is insufficient space for trucks to turn at the rear and trucks would likely trespass on the Appellant's property to make the turn. He said the Applicant holds an easement over the Appellant's laneway adjacent to the subject property, but under its conditions, it must be kept clear and open and not blocked by vehicles. He stated that the loading space variance should not be authorized without the Applicant providing a traffic engineering report demonstrating that trucks would not trespass. Under cross-examination, Mr. Glover agreed that if a fence were erected preventing vehicles from trespassing on the Appellant's property, this could alleviate the issue.

[43] Mr. Glover stated that the proposed development contemplates a new multiple dwelling use of the subject property, which is not permitted under Zoning By-law No. 6593 and can only be authorized through a zoning by-law amendment. He said

residential units located above commercial uses are only permitted where they do not exceed the area of the commercial use. He stated that a variance should not be used to change permitted uses on a property.

Analysis and Findings

[44] The Tribunal finds that the proposed variances maintain the general purpose and intent of Zoning By-law No. 6593. Under that Zoning By-law, the maximum height for a building on the subject property is four storeys (or 17.0 m). This regulation is to prevent overdevelopment and make sure that there is an appropriate transition in scale. Based on Mr. Webb's evidence, the Tribunal finds that the proposed density and height variances facilitate a development that will be compatible and will provide acceptable transition requirements from neighbouring buildings. The Tribunal also notes Mr. Webb's evidence that the proposed development will have a height that is within the 45 degree angular plane for the street and will not result in undue adverse shadow impacts.

[45] Regarding heritage issues, the Tribunal notes that the City's heritage planning staff did not have concerns arising from the proposed variances. City staff's findings, and the heritage evidence relied on by staff, was not contradicted by the Appellant with compelling heritage evidence. In this regard, the Tribunal finds that the proposed variances maintain the general purpose and intent of Zoning By-law No. 6593.

[46] With respect to the proposed parking variance, the Tribunal accepts Mr. Webb's evidence on the location of nearby public transit and active transportation infrastructure, including bike lanes and sidewalks, and finds that the zero parking variance maintains the purpose and intent of the Zoning By-law No. 6593.

[47] Regarding loading areas, the Tribunal finds that given the modest scale of the proposed mixed use development, the use of the street for loading is appropriate. It notes that smaller deliveries will be received at the rear of the building and that the

Applicant has indicated a willingness to construct a fence at the rear to prevent trespassing on the Appellant's property. The Tribunal also notes that street parking is available at the front of the proposed development. Given this context, the Tribunal finds that the proposed loading space variance maintains the purpose and intent of Zoning By-law No. 6593.

[48] Regarding permitted uses on the subject property, the Tribunal finds that dwelling units are allowed on the subject property and that the proposed variances would increase the number of permitted units and would not result in a change in use.

[49] Based on the evidence before it, the Tribunal finds that the proposed variances for front yard and rear yard depths are consistent with the setbacks of existing neighbouring buildings and are appropriate. It also finds that the absence of planting strips will maintain existing conditions and will be compatible with the character of the area. In these regards, the Tribunal finds that these proposed variances will maintain the general purpose and intent of the Zoning By-law No. 6593.

Issue 3 Are the proposed variances desirable for the appropriate use of the subject property?

Applicant's Evidence and Submissions

[50] Mr. Webb opined that the proposed variances are desirable for the appropriate use of the subject property. He reiterated that intensification is encouraged in the area and that the proposed density and height of the development are desirable. He stated that the proposed parking and loading variances are desirable given the need for intensification in the area and the location of services, transit and amenities close by. He stated that the proposed development satisfies urban design and cultural heritage requirements and comments from the City's Design Review Panel, which have been included in the conditional site plan approval. He said the proposed variances would provide setbacks that are similar to those of neighbouring buildings and consistent with

the area's character. Regarding other issues raised by the Appellant, Mr. Webb said the proposed development includes balcony amenity areas for residents and the proposed development would not be tall enough for the City to require a wind study. He said several of the Appellant's concerns, including those relating to lighting, urban design, landscaping, electrical upgrades, and stormwater management are addressed in the conditional site plan approval for the proposed development. Regarding a concern raised by the Appellant that a cell phone tower could be erected on the top of the proposed development, Mr. Webb stated that the Applicant has no intention of installing such a tower. Regarding storm water management concerns, Mr. Webb stated that the Applicant prepared and submitted a stormwater management report for the proposed development to the satisfaction of the City. He stated that there would be no stormwater run-off on neighbouring properties.

Applicant's Evidence and Submissions

[51] Mr. Glover stated that the proposed variances are not desirable for the appropriate use of the subject property. He reiterated cultural heritage, parking, and transition concerns. He also again raised concerns that if garbage trucks or other vehicles travel to the rear of the proposed development, they may trespass on the Appellant's property when turning. Regarding planting strips, he stated that the current absence of landscaping on the subject property is not an appropriate rationale for a lack of landscaping to be required for the proposed development. In his planning report, he also raised concerns regarding the ability of neighbours to harness solar energy due to shadowing caused by the proposed development, the impacts of lighting from the proposed development on adjacent heritage buildings, the possibility of the installation of a cell phone tower on the top of the proposed development, impacts of a proposed roof top amenity area on the proposed development, and the re-location of an electrical transformer. He stated that all of the proposed variances and their impacts should be considered together, including storm water management and trespassing, to determine whether the proposed variances are desirable. He reiterated that more information and studies are needed. In his planning report, Mr. Glover stated that an archaeological

assessment, transportation impact study, and a more complete functional service report are needed. He also suggested the need for a vibration study, wind study, parking and loading study, urban design brief, geotechnical report, environmental impact review, and a photometric plan. He suggested that more amenity areas should be included in the proposed development and that building materials should be used to ensure that the development is consistent with the character of the area. He said the proposed development does not include any soft surfaces to allow for the infiltration of stormwater and there may be run-off on to neighbouring properties. Under cross-examination, Mr. Glover acknowledged that stormwater management issues will be addressed at the site plan approval stage and that they were considered by City staff.

Analysis and Findings

[52] The Tribunal finds that the proposed variances are desirable for the appropriate use of the subject property and are in the public interest. The Tribunal finds that the proposed variances will facilitate development that helps increase residential intensification in the area. As noted above, it finds that the proposed increased density, height, and gross floor area variances are appropriate. The Tribunal finds that the proposed variances will not result in transition, compatibility, or cultural heritage issues. It finds that the proposed front yard setbacks are consistent with the existing streetscape and the proposed rear yard setback is appropriate given the function of the abutting laneways. It also finds that given the site context with abutting laneways, the absence of planting strips is appropriate. The Tribunal notes that stormwater management issues will be addressed at the site plan approval stage. The Tribunal finds that the Appellant's concerns regarding the impacts of lighting from the proposed development on adjacent heritage buildings, impacts of a proposed roof top amenity area on the proposed development, the re-location of an electrical transformer and other issues are addressed at the site plan approval stage.

Issue 4 Are the proposed variances minor?*Applicant's Evidence and Submissions*

[53] Mr. Webb opined that the proposed variances are minor. He stated that the proposed height variance facilitates a development that is only 3 m higher than the height permitted under the Zoning By-law, there would be appropriate separation from neighbouring properties, and that a shadow analysis was completed demonstrating that the proposed development would not unduly block sunlight on the public realm or neighbouring properties. He again that the proposed development would have a 45 degree angular plane applied to the front elevation of the proposed building. He said his shadow study confirms sun coverage on the adjacent public realm and no undue overshadow, blocking of light, or loss of privacy impacts from the height, orientation, design and massing of the proposed development. He said public parking is available near the subject property and that the proposed parking and loading variances would not have unacceptable adverse impacts. Mr. Webb stated that the proposed front yard setback variances would not likely have adverse impacts on the streetscape and are consistent with the front yard setback requirements in Zoning By-law No. 05-200 for D2 zoning.

Appellant's Evidence and Submissions

[54] Mr. Glover stated that the proposed variances are not minor. He stated that the proposed height variance is significant, there would be visual impacts, including on the heritage character of the area, and the loading variance could result in acts of trespass that would impact the Appellant's property. He said the proposed height variance would facilitate a development that results in wind impacts on neighbouring properties and he said the Applicant proposes a new use for the subject property that is not a minor change.

Analysis and Findings

[55] The Tribunal finds that the proposed variances are minor. The Tribunal finds that the Applicant has provided evidence that the proposed density, height, setback, parking, loading, and other variances will not unduly impact neighbouring properties nor are they of a significant size that departs from the existing zoning requirements. The Tribunal accepts the Applicant's evidence that there will be no shadow impacts caused by the proposed variances and that the proposed development is not of a sufficient height to require a wind study.

The PPS, Growth Plan, and s. 2 of the *Planning Act*

Applicant's Evidence and Submissions

[56] Mr. Webb opined that the proposed variances are consistent with the PPS. He stated that the subject property is within a designated settlement area. He said the proposed variances facilitate efficient development of land that will cost effectively complete the planned pattern of development of the area using existing infrastructure. He said the proposed variances facilitate an appropriate form of intensification and facilitate the development of an underutilized property using existing roads, infrastructure, and public service facilities.

[57] Mr. Webb also opined that the proposed variances conform with the Growth Plan. He stated that the subject property is within the City's built boundary and the proposed development would assist in the development of a complete community by adding to the mix and range of residential housing types in the area, providing residential units that are close to local amenities and services, and supporting public transit and active transportation. He also reiterated that the subject property is close to a Higher Order GO Transit Station. He stated that the proposed variances facilitate intensification, promote transit policy, and the achievement of provincial housing objectives.

[58] Mr. Webb also stated that he had regard to the matters of provincial interest set out in s. 2 of the *Planning Act*. He said these include the matters of provincial interest related to ecological protection, conservation of features of significant architectural, cultural, historical, archaeological or scientific interest, the adequate provision of a full range of housing, the appropriate location of growth and development, and the promotion of development that is designed to be sustainable, to support public transit, and to be oriented to pedestrians.

Appellant's Evidence and Submissions

[59] Mr. Glover stated that he has no concerns regarding the consistency of the proposed variances with the PPS or their conformity with the Growth Plan or whether the matters of provincial interest set out in s. 2 of the *Planning Act* have been considered.

Analysis and Findings

[60] Based on Mr. Webb's uncontradicted opinion evidence in this regard, the Tribunal finds that the proposed variances are consistent with the PPS and conform with the Growth Plan and that there has been regard given to the matters of provincial interest set out in s. 2 of the *Planning Act*.

Conclusions

[61] The Tribunal finds that the proposed variances satisfy the tests in s. 45(1) of the *Planning Act*, are consistent with the PPS, conform with the Growth Plan, and constitute good planning. The Tribunal has had regard to the matters of provincial interest in s. 2 of the *Planning Act* and the decision of the Committee of Adjustment regarding this matter and the information that the Committee had before it. It also has had regard to Zoning By-law No. 05-200.

ORDER

[62] The Tribunal orders that the appeal is dismissed and the following variances to By-law No. 6593 are authorized:

1. a maximum of twenty-eight (28) dwelling units shall be permitted within a six (6) storey building and where the gross floor area of the residential component exceeds the gross floor area of the commercial component notwithstanding that the Zoning By-law permits a maximum one dwelling unit for each 180.0 m² of area of the lot upon which the building is situated provided that the building does not exceed two (2) storeys in height and provided further that the gross floor area of the building used for dwelling units does not exceed the gross floor area used for commercial purposes;
2. a maximum building height of six storeys and 20.0 m shall be permitted instead of the maximum building height of four storeys and 17.0 m permitted;
3. a minimum front yard depth of 2.5 m shall be permitted instead of the minimum 6.0 m front yard depth required;
4. a minimum rear yard depth of 2.6 m shall be permitted instead of the minimum 7.5 m rear yard depth required;
5. a maximum gross floor area of 4.2 times the area of the lot shall be permitted whereas the Zoning By-law states that no building or structure in an "H" District shall have a gross floor area of more than four (4) times the area within the district of the lot on which it is situated;
6. no planting strip shall be provided and maintained along the rear lot line and both the westerly and easterly side lot lines whereas the Zoning By-law requires a minimum 1.5 m wide planting strip along every side lot line and rear lot line adjoining a residential use;

7. no parking spaces including no visitors parking shall be provided and maintained for the residential component instead of the minimum 28 parking spaces including six (6) visitors parking spaces; and
8. no loading space shall be required for the 28 unit multiple dwelling instead of the minimum one (1) loading space required.

“Hugh S. Wilkins”

HUGH S. WILKINS
MEMBER


Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 15, 2022
SUBJECT/REPORT NO:	Appointment By-law under the <i>Building Code Act, 1992</i> (PED22025) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Jorge M. Caetano (905) 546-2424 Ext. 3931
SUBMITTED BY:	Ed VanderWindt Director, Building and Chief Building Official Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the draft By-law attached as Appendix "A" to Report PED22025, respecting the appointment of a Chief Building Official, Deputies and Inspectors, which has been prepared in a form satisfactory to the City Solicitor, be approved and enacted;
- (b) That By-law 16-143, being a by-law respecting the Appointments of a Chief Building Official, Deputies and Inspectors be repealed.

EXECUTIVE SUMMARY

The attached By-law updates the list of Deputy Chief Building Officials appointed under the *Building Code Act, 1992* due to the resignation and hiring of a new Manager.

Alternatives for Consideration – Not Applicable

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**SUBJECT: Appointment By-law under the *Building Code Act, 1992* (PED22025)
(City Wide) - Page 2 of 3**

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not applicable.

Staffing: Not applicable.

Legal: The recommendation has no legal implications.

HISTORICAL BACKGROUND

The Council of the City of Hamilton must appoint a Chief Building Official, Deputy Chief Building Officials and Inspectors for the purpose of enforcement of the *Building Code Act, 1992*. The attached By-law reflects staff changes within the Building Division and will replace the existing By-law 16-143.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Approval of this recommendation will not alter or contravene any City Policy or legislated requirements.

RELEVANT CONSULTATION

Legal Services has been consulted.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The proposed By-law reflects staff changes due to the resignation and hiring of a new Manager within the Building Division since By-law 16-143 came into effect. All persons named under the By-law have achieved the required qualifications as mandated by the *Building Code Act, 1992*.

Staff are also adding a new section to the by-law to clarify that the appointments made under the by-law will terminate once a person appointed under the by-law ceases to be an employee of the City of Hamilton, or if this by-law is repealed or amended to delete the person's name from the by-law or from the list of Inspectors maintained by the Chief Building Official.

Additionally, all of By-law 16-143 is being replaced for ease of reference.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

**SUBJECT: Appointment By-law under the *Building Code Act, 1992* (PED22025)
(City Wide) - Page 3 of 3**

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Proposed Appointment By-law

**Appendix “A” to Report PED22025
Page 1 of 2**

Authority: Item , Planning Committee
Report
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. 22 -

Respecting

**THE APPOINTMENTS OF A CHIEF BUILDING OFFICIAL,
DEPUTIES AND INSPECTORS AND TO REPEAL BY-LAW 16-143**

WHEREAS section 3 of the *Building Code Act, 1992*, S.O. 1992, c. 23 (the “*Building Code Act, 1992*”) provides for the appointment of a Chief Building Official and Inspectors, and section 77 of the *Legislation Act, 2006*, S.O. 2006, c. 21, Schedule F. (the “*Legislation Act, 2006*”) provides for the appointment of Deputies;

AND WHEREAS section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “*Municipal Act, 2001*”) authorizes a municipality to delegate its powers and duties;

AND WHEREAS Council deems it necessary to provide for the appointment of a Chief Building Official, Deputy Chief Building Officials, to assist in carrying out the duties of the Chief Building Official, and Inspectors;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. (a) The following person is appointed Chief Building Official and Inspector for the purposes of the *Building Code Act, 1992*:

Ed VanderWindt
- (b) The Chief Building Official has all the power and duties of such office assigned by statute and under by-laws of the City of Hamilton, including any by-law of the former area municipalities comprising the City that remains in force.
2. (a) The following persons are appointed Deputy Chief Building Officials and Inspectors for the purposes of the *Building Code Act, 1992*:
 - (i) Jorge M. Caetano;
 - (ii) Bob Nuttall;

Appendix “A” to Report PED22025
Page 2 of 2

- (iii) Dio Ortiz; and
 - (iv) Wai Shing George Wong
 - (b) As directed by the Chief Building Official or when the Chief Building Official is absent, the Deputies listed in subsection (a) may perform and have all the powers and duties of the Chief Building Official.
 - (c) For the purposes of this section, “absent” includes when the Chief Building Official is ill or unavailable for any reason, or when the office is vacant.
3. The Chief Building Official is authorized to carry out the administrative function of appointing Inspectors, including the function of revoking such appointments, under section 3 of the *Building Code Act, 1992*, subject to the following conditions:
- (a) the Chief Building Official maintains an up-to-date list of Inspectors; and
 - (b) prior to their appointment, each candidate for appointment hold the necessary legislated qualifications for an Inspector.
4. The appointments made under the authority of this by-law shall terminate at the earliest of one of the following dates:
- (a) the date the person appointed ceases to be an employee of the City of Hamilton;
 - (b) the date this by-law is repealed or amended to delete the person’s name from the by-law; or
 - (c) the date the person’s name is deleted from the list of Inspectors maintained by the Chief Building Official under section 3 of this by-law.
5. City of Hamilton By-law No. 16-143 is repealed.
6. This By-law comes into force on the day it is passed.

PASSED this day of , 2022.

F. Eisenberger
Mayor

A. Holland
City Clerk



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
DATE:	February 15, 2022
SUBJECT/REPORT NO:	Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED22023) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Shannah Evans (905) 546-2424 Ext. 1928
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

In accordance with the June 16, 2015 Planning Committee direction, this Report provides a status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision Applications relative to the statutory timeframe provisions of the *Planning Act* for non-decision appeals. In addition, this report also includes a list and status of all applications appealed to the Ontario Land Tribunal for non-decision.

Background:

Planning Division prepares and submits on a monthly basis an Information Report to the Planning Committee on the status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision Applications relative to the statutory timeframe provisions of the *Planning Act* for non-decision appeals. The monthly report includes a table outlining the active Applications, sorted by Ward, from oldest Application to newest.

Policy Implications and Legislative Requirements – Pre Bill 108

In accordance with the *Planning Act*, prior to September 3, 2019, an Applicant had the right to appeal to the Ontario Land Tribunal an Official Plan Amendment Application after 210 days (Subsection 17 (40)), Zoning By-law Amendment Application after 150

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SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED22023) (City Wide) - Page 2 of 4

days (Subsection 34 (11)) and a Plan of Subdivision after 180 days (Subsection 51 (34)).

In accordance with Subsection 17(40.1) of the *Planning Act*, the City of Hamilton had extended the time period of Official Plan Amendment Applications from 180 days to 270 days for Applications received after July 1, 2016 as prescribed in Bill 73 and from 210 to 300 days for Applications received after December 12, 2017 as prescribed in Bill 139. It should be noted that either the City or the Applicant were able to terminate the 90-day extension period if written notice to the other party was received prior to the expiration of the 180 day or 210 day statutory timeframes.

In addition, Zoning By-law Amendment Applications that were submitted with an Official Plan Amendment Application were subject to the 210 day statutory timeframe.

Policy Implications and Legislative Requirements – Post Bill 108

On June 6, 2019, Bill 108 received Royal Assent, which reduced the statutory timeframes for non-decision appeals to the Ontario Land Tribunal outlined in the *Planning Act* for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision. The changes are applicable to complete Applications received on or after September 3, 2019.

In accordance with the *Planning Act*, an Applicant may appeal an Official Plan Amendment Application to the Ontario Land Tribunal for non-decision after 120 days (Subsection (40)), a Zoning By-law Amendment Application after 90 days (Subsection 34 (11)) and a Plan of Subdivision after 120 days (Subsection 51 (34)). However, Zoning By-law Amendment Applications that are submitted together with a required Official Plan Amendment Application are also subject to the statutory timeframe of 120 days. The 90-day extension previously prescribed in Bills 73 and 139 is no longer applicable.

Information:

Staff were directed to report back to Planning Committee with a reporting tool that seeks to monitor Applications where the applicable statutory timeframes apply. This reporting tool would be used to track the status of all active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications.

For the purposes of this Report, the status of active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision Applications have been divided, relative to the statutory timeframe provisions of the *Planning Act*, that were in effect pursuant to statutory timeframes prescribed in Bill 73 and Bill 139 and new statutory timeframes prescribed in Bill 108.

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SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED22023) (City Wide) - Page 3 of 4

Applications Deemed Complete Prior to Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “A” to Report PED22023 is a table outlining the active applications received prior to December 12, 2017 sorted by Ward, from oldest application to newest. As of January 11, 2022, there were:

- 5 active Official Plan Amendment Applications, all of which were submitted after July 1, 2016, and therefore subject to the 90 day extension to the statutory timeframe from 180 days to 270 days;
- 9 active Zoning By-law Amendment Applications; and,
- 6 active Plan of Subdivision Applications.

Within 60 to 90 days of January 11, 2022, all nine development proposals have passed the applicable 120, 180 and 270 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “B” to Report PED22023 is a table outlining the active applications received after December 12, 2017, but before Royal Assent of Bill 108, sorted by Ward, from oldest Application to newest. As of January 11, 2022, there were:

- 5 active Official Plan Amendment Applications, all of which are subject to the 90 day extension to the statutory timeframe from 210 days to 300 days;
- 10 active Zoning By-law Amendment Applications; and,
- 5 active Plan of Subdivision Applications.

Within 60 to 90 days of January 11, 2022, all 11 development proposals have passed the applicable 150, 180 or 300 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 108 (September 3, 2019)

Attached as Appendix “C” to Report PED22023 is a table outlining the active applications received after September 3, 2019, and subject to the new statutory timeframes, sorted by Ward, from oldest application to newest. As of January 11, 2022, there were:

- 26 active Official Plan Amendment Applications;

SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED22023) (City Wide) - Page 4 of 4

- 50 active Zoning By-law Amendment Applications; and,
- 11 active Plan of Subdivision Applications.

As of January 11, 2022, 8 development proposals are approaching the 90 or 120 day statutory timeframe and will be eligible for appeal. Forty-seven (47) development proposals have passed the 90 or 120 day statutory timeframe.

Planning Division Active Files

Combined to reflect property addresses, there are 75 active development proposals. Six proposals are 2022 files (8%), 29 proposals are 2021 files (39%), 17 proposals are 2020 files (23%) and 23 proposals are pre-2020 files (30%).

Staff continue to work with the AMANDA Implementation Team to add enhancements to the database that will allow for the creation of more detailed reporting. As a result, future tables will include a qualitative analysis of the status of active Applications. Furthermore, the long-term goal of the Planning Division is to make this information available on an interactive map accessed through the City of Hamilton website, and an e-mail system will provide notification of when a new application is received.

Current Non-Decision Appeals to the Ontario Land Tribunal

At the February 2, 2021 Planning Committee meeting, Planning Committee requested that information be reported relating to development Applications that have been appealed for non-decision to the Ontario Land Tribunal. Attached as Appendix "D" to Report PED22023 is a table outlining Development Applications, along with the applicant/agent, that have been appealed for non-decision to the Ontario Land Tribunal. There are currently 13 active appeals for non-decision. Third party appeals are not included in this information as Council has made a decision to approve the Application.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - List of Active Development Applications (prior to December 12, 2017)
 Appendix "B" - List of Active Development Applications (after December 12, 2017)
 Appendix "C" - List of Active Development Applications (after September 3, 2019)
 Appendix "D" - *Planning Act* Applications Currently Appealed for Non-Decision to the Ontario Land Tribunal

SE:sd

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 7									
UHOPA-17-31 ZAC-17-071	1625 - 1655 Upper James Street, Hamilton	27-Sep-17	n/a	02-Oct-17	25-Jan-18	n/a	24-Jun-18	MB1 Development Consulting Inc.	1595
Ward 9									
UHOPA-16-26 ZAC-16-065 25T-201611	478 and 490 First Road West, Stoney Creek	12-Oct-16	n/a	02-Nov-16	09-Feb-17	10-Apr-17	09-Jul-17	T. Johns Consultants Inc.	1945
UHOPA-16-27 ZAC-16-066 25T-201612	464 First Road West, Stoney Creek	12-Oct-16	n/a	02-Nov-16	09-Feb-17	n/a	09-Jul-17	T. Johns Consultants Inc.	1945
UHOPA-17-01 ZAC-17-001 25T-201701	15 Ridgeview Drive, Stoney Creek	02-Dec-16	n/a	16-Dec-16	01-Apr-17	31-May- 17	29-Aug-17	A.J. Clarke & Associates Ltd.	1894
ZAC-15-040	9 Glencrest Avenue, Stoney Creek	02-Jul-15	n/a	17-Jul-15	30-Oct-15	n/a	n/a	WEBB Planning Consultants Inc.	2413

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 10									
UHOPA-17-05 ZAC-17-015 25T-201703	1, 19, 20, 21, 23, 27 and 30 Lakeside Drive and 81 Waterford Crescent, Stoney Creek	23-Dec-16	n/a	17-Jan-17	22-Apr-17	21-Jun-17	19-Sep-17	IBI Group	1873
Ward 12									
ZAC-16-006 25T-201602	285, 293 Fiddlers Green Road, Ancaster	23-Dec-15	n/a	06-Jan-16	21-Apr-16	20-Jun-16	n/a	Liam Doherty	2239
ZAC-17-062	45 Secinaro Avenue, Ancaster	28-Jul-17	n/a	01-Aug-17	25-Nov-17	n/a	n/a	T. Johns Consultants Inc.	1656
Ward 13									
ZAC-17-064 25T-201710	655 Cramer Road, Flamborough	09-Aug-17	n/a	17-Aug-17	07-Dec-17	05-Feb-18	n/a	A.J. Clarke & Associates Ltd.	1684

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective January 11, 2022)**

Active Development Applications

1. When an Application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 120, 180 and 270 day timeframe commences on the date the new materials were submitted. In all other situations, the 120, 180 and 270 day timeframe commences the day the Application was received.
- * In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment Applications by 90 days from 180 days to 270 days. However, Applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 180 statutory timeframe

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/Agent	Days since Received and/or Deemed Complete as of December 7, 2021
Ward 2									
ZAR-19-008	124 Walnut Street South, Hamilton	21-Dec-18	n/a	18-Jan-19	20-May-19	n/a	n/a	IBI Group	1145
Ward 6									
ZAC-19-035	694 Pritchard Road, Stoney Creek	08-May-19	n/a	21-May-19	05-Oct-19	n/a	n/a	Urban in Mind Planning Consultants	1007
Ward 8									
ZAC-19-017	1020 Upper James Street, Hamilton	28-Feb-19	n/a	11-Mar-19	28-Jul-19	n/a	n/a	Wellings Planning Consultants Inc.	1076
UHOPA-19-003* ZAC-19-007 25T-2019001	238 Barton Street, Stoney Creek	19-Dec-18	n/a	02-Jan-19	n/a	17-Jun-19	15-Oct-19*	A.J. Clarke & Associates Ltd.	1147
Ward 11									
UHOPA-18-016* ZAC-18-040 25T-2018007	9511 Twenty Road West, Glanbrook	10-Jul-18	n/a	15-Aug-18	n/a	06-Jan-19	06-May-19*	Corbett Land Strategies	1309
Ward 12									
ZAC-18-048 25T-2018009	387, 397, 405 and 409 Hamilton Drive, Ancaster	09-Sep-18	n/a	28-Sep-18	06-Feb-19	08-Mar-19	n/a	Fothergill Planning & Development Inc.	1248

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/Agent	Days since Received and/or Deemed Complete as of December 7, 2021
Ward 12 Continued									
25T-2018006	140 Garner Road, Ancaster	05-Jul-18	n/a	08-Nov-18	n/a	01-Jan-19	n/a	MHBC Planning Limited	1188
UHOPA-18-022* ZAC-18-056 25T-2018010	26 Southcote Road, Ancaster	05-Nov-18	n/a	15-Nov-18	n/a	04-May-19	01-Sep-19*	A.J. Clarke & Associates Ltd.	1191
UHOPA-18-024* ZAC-18-058	154 Wilson Street East, Ancaster	28-Nov-18	n/a	10-Dec-18	n/a	n/a	24-Sep-19*	Urban Solutions Planning & Land Development	1168
Ward 14									
ZAC-19-011	1933 Old Mohawk Road, Ancaster	12-Dec-18	n/a	10-Jan-19	11-May-19	n/a	n/a	Urban Solutions Planning & Land Development	1154
Ward 15									
RHOPA-18-020* ZAC-18-045	173 and 177 Dundas Street East, Flamborough	23-Jul-18	n/a	15-Aug-18	n/a	n/a	19-May-19*	MHBC Planning Limited	1296

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective January 11, 2022)**

Active Development Applications

1. When an Application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 150, 180, 210 and 300 day timeframe commences on the date the new materials were submitted. In all other situations, the 150, 180, 210 and 300 day timeframe commences the day the Application was received.
- * In accordance with Section 34 (11.0.0.0.1), of the *Planning Act*, the approval period for Zoning By-law Amendment applications submitted concurrently with an Official Plan Amendments, will be extended to 210 days.
- * In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment Applications by 90 days from 210 days to 300 days. However, Applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 210 statutory timeframe.

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 1								
UHOPA-20-012 ZAC-20-016	1107 Main Street West, Hamilton	13-Feb-20	n/a	13-Mar-20	n/a	12-Jun-20	Bousfields Inc.	726
UHOPA-20-027 ZAC-20-042	1629-1655 Main Street West, Hamilton	2-Nov-20	n/a	1-Dec-20	n/a	02-Mar-21	GSP Group	457
Ward 2								
UHOPA-20-001 ZAR-20-001	383 and 383 1/2 Hughson Street North, Hamilton	29-Nov-19	n/a	29-Dec-19	n/a	28-Mar-20	T. Johns Consulting Group	802
UHOPA-20-008 ZAR-20-013	222-228 Barton Street East and 255 - 265 Wellington Street North, Hamilton	20-Dec-19	n/a	17-Jan-20	n/a	18-Apr-20	Urban Solutions Planning and Land Development	781
UHOPA-20-025 ZAC-20-038	115 George Street and 220-222 Main Street West, Hamilton	04-Sep-20	n/a	28-Sep-20	n/a	02-Jan-21	GSP Group	522
UHOPA-21-007 ZAC-21-014	101 Hunter Street East, Hamilton	23-Mar-21	n/a	8-Apr-21	n/a	21-Jul-21	Coletara Developments	322
ZAC-21-020	221 Charlton Avenue East, Hamilton	26-Apr-21	n/a	06-May-21	25-Jul-21	n/a	T. Johns Consulting Group	288

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 2 Continued								
UHOPA-21-014 ZAC-21-031	405 James Street North, Hamilton	07-July-21	n/a	19-July-2021	n/a	03-Nov-2021	Jamesville Redevelopment Ltd. CityHousing Hamilton	205
UHOPA-22-001 ZAC-22-003	65 Guise Street	15-Nov-21	n/a	18-Nov-21	n/a	15-Mar-22	James Webb Consulting Inc.	53
Ward 4								
UHOPA-21-009 ZAC-21-021	1842 King Street East, Hamilton	07-May-21	n/a	13-May-21	n/a	04-Sep-21	Urban Solutions Planning and Land Development	277
Ward 5								
UHOPA-21-019 ZAC-21-041	510 Centennial Parkway, Stoney Creek	22-Sep-21	n/a	22-Sep-21	n/a	20-Jan-22	Smart Centres REIT	139
ZAC-21-043	300 Albright Road, Hamilton	29-Sep-21	n/a	30-Sep-21	04-Jan-22	n/a	MHBC Planning Ltd.	132
ZAC-22-007	1117 Beach Boulevard, Hamilton	01-Dec-21	n/a	01-Dec-21	01-Mar-22	n/a	Design Plan Services Inc.	40

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 7								
UHOPA-20-021 ZAC-20-037 25T-202006	544 and 550 Rymal Road East, Hamilton	11-Sep-20	n/a	11-Oct-20	n/a	09-Jan-20	Rymal East Development Corp.	515
ZAC-21-023	1540 Upper Wentworth Street	14-Jun-21	n/a	21-Jun-21	12-Sep-21	n/a	T. Johns Consulting Group	232
UHOPA-21-012 ZAC-21-026	705-713 Rymal Road East, Hamilton	2-July-21	n/a	27-July-21	n/a	30-Oct-21	Wellings Planning Consultants Inc.	197
Ward 8								
ZAC-19-056	11 Springside Crescent, Hamilton	26-Nov-19	n/a	06-Dec-19	25-Mar-20	n/a	Urban in Mind Planning Consultants	805
ZAC-20-018	212 and 220 Rymal Road West, Hamilton	20-Feb-20	n/a	16-Mar-20	19-Jun-20	n/a	T. Johns Consulting Group	719
UHOPA-20-017 ZAC-20 029 25T-202003	393 Rymal Road West, Hamilton	20-Jul-20	n/a	19-Aug-20	n/a	17-Nov-20	GSP Group Inc.	568
UHOPA-21-011 ZAC-21-025	60 Caledon Avenue, Hamilton	02-Jul-21	n/a	08-Jul-21	n/a	05-Nov-21	GSP Group Inc.	216

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 8 Continued								
ZAC-21-029 25T-202108	204, 212, 220, 226 Rymal Road West, Hamilton	05-July-21	n/a	09-Aug-21	n/a	02-Nov-21	T. Johns Consulting Group	184
ZAC-21-036	866 West 5 th Street, Hamilton	11-Aug-21	n/a	03-Sep-21	09-Nov-21	n/a	Urban Solutions Planning and Land Development	157
Ward 9								
ZAC-20-004	329 Highland Road West, Stoney Creek	20-Dec-19	n/a	16-Jan-20	18-Apr-20	n/a	WEBB Planning Consultants Inc.	781
UHOPA-20-010 ZAC-20-015 25T-200303R	2080 Rymal Road East, Glanbrook	20-Dec-19	20-Jan-20	31-Jan-20	n/a	19-May-20	A.J. Clarke & Associates Ltd.	739
ZAC-20-026	250 First Road West, Stoney Creek	20-Jul-20	n/a	24-Jul-20	30-Sep-20	n/a	Urban Solutions Planning and Land Development	586
UHOPA-21-016 ZAC-21-033	136 and 144 Upper Mount Albion Road, Stoney Creek	15-Jul-21	n/a	n/a	n/a	12-Nov-21	Bousfields Inc.	208
ZAC-22-001	2153, 2155, and 2157 Rymal Road East, Stoney Creek	4-Nov-21	n/a	n/a	2-Feb-22	n/a	Weston Consulting	68

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 10								
ZAC-19-036	564 Fifty Road, Stoney Creek	08-May-19	28-May-19	16-Mar-20	n/a	n/a	DeFilippis Design	694
UHOPA-21-018 ZAC-21-039	1400 South Service Road, Stoney Creek	10-Sep-21	n/a	16-Sep-21	n/a	14-Jan-22	MHBC Planning Ltd.	145
Ward 11								
ZAC-20-019	9255 Airport Road, Glanbrook	25-Feb-20	n/a	16-Mar-20	25-May-20	n/a	The MBTW Group	714
25T-202002	9326 and 9322 Dickenson Road, Glanbrook	16-May-20	n/a	09-Apr-20	n/a	07-Aug-20	WEBB Planning Consultants Inc.	697
UHOPA-21-001 ZAC-21-001 25T-202101	3169 Fletcher Road, Glanbrook	14-Dec-20	n/a	12-Jan-21	n/a	12-May-21	A.J. Clarke & Associates Ltd.	421
UHOPA-21-006 ZAC-21-011	582 and 584 Hwy. 8, Stoney Creek	08-Feb-21	n/a	08-Mar-21	n/a	21-Jul-21	SIMNAT Consulting Inc.	365
ZAC-21-024	3435 Binbrook Road, Glanbrook	21-Jun-21	n/a	06-Jul-21	19-Sep-21	n/a	Armstrong Planning	217

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 11 Continued								
UHOPA-21-015 ZAC-21-032	5020 Tyneside Road, Stoney Creek	05-July-21	n/a	30-July-21	n/a	02-Nov-21	LandPro Planning Solutions	194
ZAC-21-045	541 and 545 Fifty Road, Stoney Creek	04-Oct-21	n/a	12-Oct-21	02-Jan-22	n/a	IBI Group	119
ZAA-22-006	9270 Haldibrook Road, Glanbrook	18-Nov-21	n/a	23-Nov-21	16-Feb-22	n/a	Fothergill Planning & Development	48
Ward 12								
25T-200720R (2019 File)	1020 Osprey Drive, Ancaster	15-Apr-19	30-Aug-19	11-Dec-19	n/a	02-Apr-20	Coltara Development / 1892757 Ontario INC.	790
UHOPA-20-013 ZAC-20-017	210 Calvin Street, Ancaster	18-Feb-20	04-Mar-20	11-Jun-20	n/a	09-Oct-20	SGL Planning & Design Inc.	607
ZAC-20-024	140 Wilson Street West, Ancaster	15-Jun-20	n/a	02-Jul-20	13-Sep-20	n/a	A.J. Clarke & Associates Ltd.	603

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 12 Continued								
ZAR-20-040	1552 Concession 2 West, Flamborough	15-Oct-20	n/a	29-Oct-20	13-Jan-21	n/a	Urban in Mind	757
25T-202102	370 Garner Road East, Ancaster	18-Dec-20	n/a	22-Jan-21	n/a	17-Apr-21	A.J. Clarke & Associates Ltd.	417
UHOPA-21-002 ZAC-21-002	327 and 335 Wilson Street East, Ancaster	23-Dec-20	n/a	15-Jan-21	n/a	22-Apr-21	T. Johns Consulting Group	412
25T-202105	700 Garner Road East, Ancaster	18-Jan-21	n/a	04-Feb-21	n/a	18-May-21	MHBC Planning Ltd.	386
ZAC-21-027	140 and 164 Sulphur Springs Road, Ancaster	05-Jul-21	n/a	16-July-21	02-Oct-21	n/a	Fothergill Planning & Development Inc.	208
ZAC-21-030	1040 Garner Road West, Ancaster	05-Jul-21	n/a	29-Jul-21	02-Oct-21	n/a	Urban Solutions Planning & Land Development	195
RHOPA-21-017 ZAC-21-040	173 Highway 52, Flamborough	14-Sep-21	n/a	20-Sep-21	n/a	18-Jan-22	Don Robertson	141
25T-202110	179 Wilson Street West, Ancaster	28-Sep-21	n/a	07-Oct-21	n/a	26-Jan-22	T. Johns Consulting	124

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of December 7, 2021
Ward 12 Continued								
UHOPA-21-023 ZAC-21-049	442 and 454 Wilson Street East, Ancaster	29-Oct-21	n/a	29-Oct-21	n/a	26-Feb-22	GSP Group Inc.	74
UHOPA-22-002 ZAC-22-005	487 Shaver Road, Ancaster	2-Nov-21	n/a	17-Nov-21	n/a	2-Mar-22	GSP Group Inc	54
Ward 13								
ZAC-21-003	125 Pirie Drive Dundas	23-Dec-20	n/a	22-Jan-21	23-Mar-21	n/a	Wellings Planning Consultants	385
Ward 14								
ZAR-22-004	12 Louisa Street Flamborough	15-Nov-21	n/a	23-Nov-21	13-Feb-22	n/a	MB1 Development Consulting Inc.	48
Ward 15								
ZAC-20-006	518 Dundas Street East, Dundas	23-Dec-19	n/a	22-Jan-20	n/a	21-Apr-20	Urban Solutions Planning and Land Development	751
UHOPA-21-003 ZAC-21-007 25T-202103	562 Dundas Street East, Flamborough	23-Dec-20	n/a	08-Feb-21	n/a	22-Apr-21	Metropolitan Consulting Inc.	385
ZAC-21-017	265 Mill Street South, Flamborough	8-Apr-21	n/a	12-Apr-21	7-Jul-21	n/a	IBI Group	279

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective January 11, 2022)**

Active Development Applications

1. When an Application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 90 and 120 day timeframe commences on the date the new materials were submitted. In all other situations, the 90 and 120 day timeframe commences the day the Application was received.

**Planning Act Applications
Currently Appealed for Non-Decision to the
Ontario Land Tribunal (OLT)
(Effective January 11, 2022)**

Ward	Address	Applicant /Agent	Date Appeal Received
Ward 1			
1	69 Sanders Boulevard and 1630 Main Street West, Hamilton	Urban Solutions Planning & Land Development Consultants Inc.	October 2020
1	1190 Main Street West, 43, 47, 51 and 55 Forsyth Avenue South, 75, 77, 81, 83, 99, 103, 107, 111, 115 Traymore Avenue and 50 Dalewood Avenue, Hamilton	Bousfields Inc.	March 2018
1	354 King Street West, Hamilton	GSP Group	July 2021
Ward 2			
2	299-307 John Street South, Hamilton	Urban Solutions Planning & Land Development Consultants Inc.	November 2021
Ward 8			
8	801-870 Scenic Drive, Hamilton	Valery Developments Inc.	May 2021
Ward 9			
9	157 Upper Centennial Parkway, Stoney Creek	WEBB Planning Consultants Inc.	September 2017
Ward 10			
10	1036, 1038, 1054, 1090 Barton Street, and 262 McNeilly Road, Stoney Creek	Glen Schnarr & Associates Inc.	November 2021

**Planning Act Applications
Currently Appealed for Non-Decision to the
Ontario Land Tribunal (OLT)
(Effective January 11, 2022)**

Ward	Address	Applicant /Agent	Date Appeal Received
Ward 11			
11	3033, 3047, 3055 & 3063 Binbrook Road, Glanbrook (Binbrook)and	GSP Group	August 2017
11	3355 Golf Club Road, Glanbrook	Corbett Land Strategies Inc.	June 2021
Ward 13			
13	73-89 Stone Church Road West and 1029 West 5 th Street, Hamilton	Urban Solutions Planning and Land Development Consultants Inc.	July 2020
Ward 15			
15	609 and 615 Hamilton Street North and 3 Nesbit Boulevard and 129 – 137 Trudell Circle, Flamborough (Waterdown)	Urban Solutions Planning and Land Development Consultants Inc.	October 2017
15	111 Silverwood Drive (111 Parkside Drive, Flamborough (Waterdown)	Metropolitan Consulting Inc.	October 2017
15	30, 36 and 42 Dundas Street East, 50 Horseshoe Crescent, and 522 Highway 6, Flamborough	MHBC Planning	August 2021



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 15, 2022
SUBJECT/REPORT NO:	Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for Lands Located at 173 Highway 52, 1372 Concession 2 West and 1348 Concession 2 West, Flamborough (PED22020) (Ward 14)
WARD AFFECTED:	Ward 14
PREPARED BY:	Charlie Toman (905) 546-2424 Ext. 5863
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Rural Hamilton Official Plan Amendment Application RHOPA-21-017, by Don Robertson on behalf of Jacob and Cassidy DeJong, (Owner)**, to amend the Rural Hamilton Official Plan to established a Special Policy Area within the “Agriculture” designation on the subject lands to recognize a reduced lot area to permit a Consent Application for a lot line adjustment, for the lands located at 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough as shown on Appendix “A” attached to Report PED22020 to implement the direction given by Planning Committee on May 18, 2021 (PED21059) on Committee of Adjustment Application FL/B-20:86, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED22020, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the proposed amendment is consistent with the Provincial Policy Statement (2020) and conforms to the Greenbelt Plan (2017);

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.

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 2 of 17

- (b) That Amended **Zoning By-law Amendment application ZAC-21-040 by Don Robertson on behalf of Jacob and Cassidy DeJong, (Owner)**, to change the zoning from Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to the Agricultural (A1, 762) Zone, Conservation/Hazard Land-Rural (P7, 762) Zone and Conservation/Hazard Land-Rural (P8, 762) Zone to permit a reduced lot area for lands located at 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough as shown on Appendix “C” attached to Report PED22020, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED22020, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to the Greenbelt Plan (2020), and will comply with the Rural Hamilton Official Plan upon approval of Rural Hamilton Official Plan Amendment No. XX.

EXECUTIVE SUMMARY

On January 21, 2021, the Committee of Adjustment considered Consent Application FL/B-20:86 to permit the conveyance of a 19.2 ha parcel of land at 173 Highway No. 52 and to retain a 1.14 ha parcel containing an existing single detached dwelling. The 19.2 ha parcel would be merged with an abutting vacant parcel of land at 1348 Concession 2 West and 1372 Concession 2 West for agricultural purposes (see Appendix “G” attached to Report PED22020). Although the conveyed parcel would be for agricultural purposes, the retained 1.14 ha parcel would be too small for agricultural purposes and would become a residential lot.

The Committee of Adjustment approved the Consent Application with conditions. The Committee of Adjustment approved the Application for the reasons set out in the decision of the Committee of Adjustment (see Appendix “D” attached to Report PED22020). Two of the conditions issued by the Committee of Adjustment were that the Applicant submit and receive final and binding approval for an Official Plan and Zoning By-law Amendment.

The decision of the Committee of Adjustment was appealed to the Local Planning Appeal Tribunal (LPAT), now the Ontario Land Tribunal, by staff as the Application was interpreted as resulting in the creation of a new residential lot which conflicted with the Greenbelt Plan and Rural Hamilton Official Plan. Staff presented a report to Planning

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 3 of 17

Committee on May 18, 2021 (PED21059) requesting direction on how to proceed with the Appeal. Planning Committee directed staff to withdraw the appeal to the LPAT and allow the Committee of Adjustment's Consent decision to stand.

On September 14, 2021 the Owner, Jacob and Cassidy DeJong, applied for an Official Plan and Zoning By-law Amendment to recognize the reduced lot area of both the retained 1.14 ha rural residential lot and the larger 19.2 ha lot to be merged with the adjacent 17.9 ha lot at 1348 Concession 2 West and 1372 Concession 2 West.

The purpose of the Rural Hamilton Official Plan Amendment Application is to establish a special policy area to recognize the reduced lot area of both the retained 1.14 ha rural residential lot at 173 Highway 52 and the larger 19.2 ha lot to be merged with the adjacent 17.9 ha lot at 1348 Concession 2 West and 1372 Concession 2 West.

The purpose of the Zoning By-law Amendment Application is to change the zoning from Agricultural (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to the Agricultural (A1, 762) Zone, Conservation/Hazard Land-Rural (P7, 762) Zone and Conservation/Hazard Land-Rural (P8, 762) Zone to recognize the reduced lot area of both the retained 1.14 ha rural residential lot at 173 Highway 52 and the larger 19.2 ha lot to be merged with the adjacent 17.9 ha lot at 1348 Concession 2 West and 1372 Concession 2 West.

Alternatives for Consideration – See Page 16

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Official Plan and Zoning By-law.

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 4 of 17

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	Jacob and Cassidy DeJong
File Number:	RHOPA-21-017 and ZAC-21-040
Type of Application:	Rural Hamilton Official Plan Amendment and Zoning By-law Amendment
Proposal:	<ul style="list-style-type: none"> Establish a special policy area to recognize the reduced lot area of both the retained 1.14 ha rural residential lot at 173 Highway 52 and the larger 19.2 ha lot to be merged with the adjacent 17.9 ha lot at 1348 Concession 2 West and 1372 Concession 2 West resulting from Consent Application FL/B-20:86; and, Change the zoning from Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to the Agricultural (A1, 762) Zone, Conservation/Hazard Land-Rural (P7, 762) Zone and Conservation/Hazard Land-Rural (P8, 762) Zone to recognize the reduced lot area of both the retained 1.14 ha rural residential lot at 173 Highway 52 and the larger 19.2 ha lot to be merged with the adjacent 17.9 ha lot at 1348 Concession 2 West and 1372 Concession 2 West resulting from Consent Application FL/B-20:86.
Property Details	
Municipal Address:	173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West
Lot Area:	20.34 ha. Proposed retained rural residential Lot at 173 Highway 52 ± 1.14 ha. Proposed severed agricultural parcel at 173 Highway 52 ± 19.2 ha. Combined lot area of severed agricultural parcel at 173 Highway 52 with agricultural lot at 1348 Concession 2 West and 1372 Concession 2 West: ± 37.17 ha.

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 5 of 17

Property Details	
Servicing:	The properties are serviced by private services (separate well and septic services).
Existing Use:	Agriculture
Documents	
Provincial Policy Statement (PPS):	The proposal to allow for a lot addition is consistent with the PPS (2020).
Greenbelt Plan:	The proposal to allow for a lot addition conforms to the Greenbelt Plan (2017).
Rural Hamilton Official Plan Existing:	“Agriculture” in Schedule “D” – Rural Land Use Designations
Official Plan Proposed:	Site Specific “Agriculture” designation in order to recognize the reduced lot area for both the retained parcel at 173 Highway 52, Flamborough and the severed parcel to be merged with 1348 Concession 2 and 1372 Concession 2, Flamborough.
Zoning Existing:	Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8)
Zoning Proposed:	Agriculture (A1, 762) Zone, Conservation/Hazard Land-Rural (P7,762) Zone and Conservation/Hazard Land-Rural (P8,762) Zone.
Modifications Proposed:	<p>Modifications requested by the applicant:</p> <ul style="list-style-type: none"> • Notwithstanding Section 12.1.3.1a), for the property known as 173 Highway 52, the minimum lot area shall be 1.14 hectares instead of the required 40.4 hectares; and, • Notwithstanding Section 12.1.3.1a), for the property known as 1348 Concession 2 West and 1372 Concession 2, the minimum lot area shall be 37.17 hectares instead of the required 40.4 hectares. <p>Modifications identified by Planning Staff:</p> <ul style="list-style-type: none"> • Modifications to the P7 and P8 Zones to reflect the reduced lot areas as outlined above.

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SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 6 of 17

Processing Details	
Received:	September 14, 2021
Deemed Complete:	September 20, 2021
Notice of Complete Application:	Sent to nine property owners within 120 metres of the subject property on September 23, 2021.
Public Notice Sign:	Sign Posted: October 4, 2021
Notice of Public Meeting:	Sent to nine property owners within 120 metres of the subject property on January 26, 2022.
Public Consultation:	As per the approved Council guidelines, circulation to the surrounding property owners was previously provided through the Committee of Adjustment Consent applications. At that time, no comments were received.
Public Comments:	One public comment was received on the proposal.
Processing Time:	140 days from the date of receipt of applications.

BACKGROUND

Consent Application FL/B-20:86

The Consent to Sever Application FL/B-20:86 was heard by the Committee of Adjustment on January 21, 2021. The proposal was to sever a 19.2 ha agricultural parcel at 173 Highway No. 52 and retain a 1.14 ha parcel containing an existing dwelling. An existing barn on the retained portion would be demolished. The larger 19.2 ha parcel would be conveyed to the adjacent vacant 17.9 ha lot at 1372 Concession 2 West. The agent for the Applicant advised that the present owners are not farmers and that the adjacent owner at 1372 Concession 2 West desired a larger agricultural parcel for their farming operation.

The Applicant advised that no land would be taken out of agricultural production and no new lots would be created once the two properties were merged. The Committee approved the Application with conditions including a successful Official Plan Amendment to permit the proposed severance and a Zoning By-law Amendment.

Appeal to Local Planning Administrative Tribunal (LPAT)

On February 1, 2021, Planning Division staff filed an appeal to the LPAT on behalf of the Planning and Economic Development Department with the Committee of

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 7 of 17

Adjustment decision to approve the Application. The reasons for the appeal are as follows:

- a) The proposed Consent conflicts with the Severance policies of the Greenbelt Plan and the RHOP; and,
- b) The lands to be retained do not comply with the applicable provisions of the Zoning By-law.

May 18, 2021 Planning Committee Meeting

On May 18, 2021, the Planning Committee considered staff's report (PED21059), Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications FL/B-20:86.

The Planning Committee directed staff to withdraw the appeal and directed that the applicant be required to apply for and receive approval of an Official Plan Amendment in addition to the Zoning By-law Amendment prior to the Consent being approved (see Planning Committee minutes of May 18, 2021 attached as Appendix "D" to Report PED22020).

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	Agriculture	Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone

Surrounding Land Uses:

North	Agriculture and single detached dwellings	Agriculture (A1) Zone and Conservation/Hazard Land-Rural (P7) Zone
East	Agriculture and Open Space (Cemetery)	Agriculture (A1) Zone

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 8 of 17

Surrounding Land Uses:

West	Open Space (Golf Course)	Open Space (P4) Zone
South	Agriculture, single detached dwellings, Veterinary Clinic and Open Space (Golf Course)	Open Space (P4,131) Zone, Agricultural (A1, 185) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2020) (PPS)

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020) PPS. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others, apply to the proposal.

- “2.3.4.1 Lot Creation in *prime agricultural areas* is discouraged and may only be permitted for:
- a) *Agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
 - b) *Agriculture-related uses*, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
 - c) *A residence surplus to a farming operation* as a result of farm consolidation, provided that:
 - i) The new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and,

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 9 of 17

- ii) The planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and,
 - d) *Infrastructure*, where the facility or corridor cannot be accommodated through the use of easement or rights-of-way;
- 2.3.4.2 Lot adjustments in *prime agricultural areas* may be permitted for legal or technical reasons; and,
- 2.3.4.3 The creation of new residential lots *in prime agricultural areas* shall not be permitted, except in accordance with policy 2.3.4.1(c).”

The subject lands are located within a prime agricultural area. The Consent Application will result in the existing undersized agricultural lot at 173 Highway 52 being further reduced in size so that it would function as a residential lot. However, the proposed severance constitutes a lot adjustment under the Provincial Policy Statement as no new lot would be created.

The Rural Hamilton Official Plan and Zoning By-law Amendment Applications can be supported as 173 Highway 52 is currently undersized at 20.34 ha, of which only approximately 8.6 ha can be farmed due to the woodlot on the property, which is not large enough to sustain a commercially viable farm operation. Conveyance of these lands to the agricultural lot at 1348 Concession 2 West and 1372 Concession 2 West would result in a ± 37.17 ha agricultural lot which is suitable size for a commercial farm operation.

Therefore, based on the above, the proposal is consistent with the Provincial Policy Statement.

Greenbelt Plan (2017)

The lands are designated “Protected Countryside” in the Greenbelt Plan. The following policies of the Greenbelt Plan, amongst others, apply to the proposal.

“4.6 Lot Creation

1. Lot creation is discouraged and may only be permitted for:

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 10 of 17

- e) Minor lot adjustments or boundary additions, provided they do not create a separate lot for a residential dwelling in prime agricultural areas, including specialty crop areas, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.”

By virtue of Council’s direction to withdraw the appeal on the basis that it was considered lot creation under the Greenbelt Plan and the Rural Hamilton Official Plan, Council has accepted the proposal to be a lot addition under the Greenbelt Plan and the Rural Hamilton Official Plan. The severance will not result in increased fragmentation of key natural heritage features or key hydrological features. Therefore, based on the above, the proposal conforms to the Greenbelt Plan.

Rural Hamilton Official Plan (RHOP)

The subject lands are designated as “Agriculture” in Schedule D - Rural Land Use Designations. The following policies, amongst others, apply to the proposal.

Residential Development – Severance Policies

“F.1.14.2.1 The following policies apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agricultural, Rural, Speciality Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations:

- a) Severances that create a new lot for the following purposes shall be prohibited:
- i) Residential uses except in accordance with:
- 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a *farm consolidation*; and,
 - 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 11 of 17

- d) All proposed lot additions shall:
- i. Comply with the policies of this Plan including rural settlement area plans where one exists;
 - ii. Be compatible with and not hinder surrounding agricultural operations;
 - iii. Conform to the Zoning By-law;
 - iv. Only be permitted when both lots will retain frontage on a public road; and,
 - v. Meet the requirements of Section C.5.1, Private Water and Wastewater Services, including the requirement for submission of a hydrogeological study regarding existing or proposed private water and wastewater services prior to or at the time of Application, except as permitted in F.1.14.2.7 d);

F.1.14.2.5 Lot additions, except within designated Rural Settlement Areas, may be considered for permitted uses provided the following conditions are met:

- a) No new lots shall be created;
- b) For lands within the Agriculture designation where the *lot addition* is for *agricultural uses*, the minimum lot size of all resulting lots shall be 40.4 hectares (100 acres); and,
- h) The lands to be severed and conveyed are added to and merged on title with an abutting property or properties.”

Council’s direction to withdraw the appeal was based on the Application not being considered lot creation under the Greenbelt Plan and the Rural Hamilton Official Plan. Council has accepted the proposal to be a lot addition under the Greenbelt Plan and the Rural Hamilton Official Plan. Therefore, policy F.1.14.2.1 a) does not apply. The Consent generally conforms to the policies respecting lot additions with the exception of meeting the minimum lot size for agricultural uses within the RHOP and Zoning By-law of 40.4 ha which the Applicant proposes to address through these applications. Staff note that 1.14 hectare retained lot at 173 Highway 52 would be considered a residential lot under the RHOP.

With respect to the other RHOP lot addition policies, staff are satisfied that:

- The proposal is compatible with and will not hinder surrounding agricultural operations;
- Both the severed and retained lots retain frontage on a public road; and,

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 12 of 17

- The retained lot is a sufficient size to accommodate private waste and wastewater services.

Staff note that a condition of the Consent Application is that owner merge the severed agricultural lot with the vacant agricultural lot at 1348 Concession 2 West and 1372 Concession 2 West.

C.5.1 Private Water and Wastewater Services

- “5.1.1 No draft, conditional or final approval of development proposals shall be granted by the City for any development in the rural area that could impact existing private services or involves private services until the development proposal has complied with all of the following:
- a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or proposed private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the proponent does not agree with the City’s calculations, the proponent shall be required to submit a hydrogeological study completed in accordance with Section F.3.2.2 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as may be approved or amended from time to time;
 - b) Any information submitted or study required in Policy C.5.1.1 a) shall be completed to the satisfaction of the City in accordance with Section F.3.2.5 of this Plan and Hydrogeological Study Guidelines as may be amended from time to time. The City may request or conduct a peer review of the study or servicing information, which shall be completed by an agency or professional consultant acceptable to the City and retained by the City at the Applicant’s expense. (OPA 23)

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 13 of 17

- c) The minimum size for a new lot proposed in an Application for a severance, lot addition or draft plan of subdivision with an existing or proposed private water system and/or existing or proposed private sewage disposal system shall:
 - i) Be the size required to accommodate the water system and sewage disposal system with acceptable on-site and off-site impacts;
 - ii) Shall include sufficient land for a reserve discharge site or leaching bed, as determined by the requirements in Policies C.5.1.1 a) and b); and,
 - iii) Not be less than 0.4 hectare (one acre) in size. The maximum lot size shall be in accordance with Policy F.1.14.2.1 f). (OPA 26);

- f) The minimum size for a new lot proposed in an Application for a severance or lot addition with an existing or proposed private water system and/or existing or proposed private sewage disposal system shall be the size required to accommodate the water system and sewage disposal system with acceptable on-site and off-site impacts, and shall include sufficient land for a reserve discharge site or leaching bed as determined by the requirements in Policies C.5.1.1 a) and b). In no case shall a proposed new lot be less than one acre in size. The maximum lot size shall be in accordance with Policy F.1.14.2.1.

- g) The private water supply and sewage disposal systems shall be capable of sustaining the proposed and existing uses within acceptable levels of on-site and off-site water quantity and quality impacts, including nitrate impact;

- h) The existing or proposed wastewater system shall not include a sewage disposal holding tank; and,

- i) The existing or proposed water supply system shall include a well with sufficient quantity of water to sustain the use. A cistern system that meets current accepted standards, may, to the satisfaction of the City, be an additional component of the water supply system.”

As the retained lot will be greater than 1.0 ha, it would meet the sustainable servicing policies of the RHOP, subject to the Applicant satisfying Consent Application FL/B-

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 14 of 17

20:86 conditions requiring the Applicant to provide evidence that the existing septic system on the retained lands complies with all applicable requirements under the Ontario Building Code.

City of Hamilton Zoning By-law No. 05-200

The subject lands are currently zoned Agriculture (A1) Zone, Conservation/Hazard Land - Rural (P7) Zone and Conservation/Hazard Land - Rural (P8) Zone under City of Hamilton Zoning By-law No. 05-200. Permitted uses under the Agriculture (A1) Zone include Agriculture and a Single Detached Dwelling. Section 12.1.3.1 a) of the Zoning By-law establishes a Minimum Lot Area of 40.4 ha.

The purpose of the Zoning By-law Amendment is to add a site specific exception to the Agriculture (A1) Zone, Conservation/Hazard Land - Rural (P7) Zone and Conservation/Hazard Land - Rural (P8) Zone to recognize the reduced lot area of 1.14 ha for the retained lot at 173 Highway 52 and the reduced lot area of the severed lot to be merged with 1348 Concession 2 West and 1372 Concession 2 of 37.17 ha. The Applicant is not proposing to adjust the boundaries of the Conservation/Hazard Land - Rural (P7) Zone and Conservation/Hazard Land - Rural (P8) Zone.

RELEVANT CONSULTATION

Departments and Agencies		
	<ul style="list-style-type: none"> • Asset Management, Strategic Planning, Public Works Department; • Recreation Division, Healthy and Safe Communities Department; • Forestry and Horticulture Division, Public Works Department; • Legislative Approvals, Growth Management Department • Canada Post; and, • Grand River Conservation Authority. 	No comment or objection
	Comment	Staff Response
Development Engineering Approvals, Planning and Economic Development Department	<ul style="list-style-type: none"> • There are no existing municipal services fronting the subject property and the residential developments will continue to use the private well and septic systems on site; • Given the retained lot will be greater than 1.0 ha in area, it would meet the sustainable servicing policies of the Rural Hamilton Official Plan and as a result, we can support the Application. 	<ul style="list-style-type: none"> • Noted

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	Comment	Staff Response
Development Engineering Approvals, Planning and Economic Development Department Continued.	<ul style="list-style-type: none"> If not already satisfied, we would recommend that Building Division confirm the proposed severance meets minimum clearance distances of Part 8 of the Ontario Building Code as it pertains to the septic system on the retained lot. 	
Public Consultation:		
Consistency	One resident requested that future rural severance applications be consistently reviewed and evaluated by the City of Hamilton.	<ul style="list-style-type: none"> Noted

Public Consultation

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application was sent to nine property owners within 120 metres of the subject property on September 20, 2021. A Public Notice sign was posted on the property on October 4, 2021 and updated with the public meeting date on January 25, 2022. Finally, Notice of the Public Meeting was mailed to nine property owners within 120 metres of the subject lands on January 25, 2022.

To date, one public comment was received as a result of the circulation and is discussed in further detail in the chart above and attached as Appendix “E” to Report PED22020.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

- 1) The proposed Rural Hamilton Official Plan and Zoning By-law Amendments have merit and can be supported for the following reasons:
 - i. Council directed that staff withdraw the appeal on the basis that the Application was for a lot addition under the Rural Hamilton Official Plan. As such, Council was satisfied that the proposal was consistent with the Provincial Policy Statement (2020), conforms to the Greenbelt Plan (2017); and complies with the general intent and purpose of the Rural Hamilton Official Plan, subject to the recommended Official Plan Amendment; and,

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- ii. The proposed development is considered to be compatible with the existing and planned development in the area;
- 2) The proposed Rural Hamilton Official Plan Amendment will add a site-specific policy area to the subject lands in order to permit a minimum lot area of 1.14 ha for the retained lands at 173 Highway 52 and a minimum lot area of 37.17 ha of the severed lot to be merged with 1348 Concession 2 West and 1372 Concession 2;

The amendments will implement the direction given by the Planning Committee on May 18, 2021 and to allow for the implementation of the January 21, 2021 Committee of Adjustment approval of the proposed severance;

- 3) The Consent generally conforms to the Rural Hamilton Official Plan policies respecting lot additions in that:
- The proposal is compatible with and will not hinder surrounding agricultural operations;
 - Both the severed and retained lots retain frontage on a public road; and,
 - The retained lot is a sufficient size to accommodate private waste and wastewater services;
- 4) The proposed Zoning By-law Amendment will add a site specific exception to the Agriculture (A1) Zone, Conservation/Hazard Land - Rural (P7) Zone and Conservation/Hazard Land - Rural (P8) Zone under City of Hamilton Zoning By-law No. 05-200 to recognize the reduced lot area of 1.14 ha for the retained lot at 173 Highway 52 and the reduced lot area of the severed lot to be merged with 1348 Concession 2 West and 1372 Concession 2 of 37.17 ha. The requested modifications have merit as the proposal will not hinder surrounding agricultural operations and the minimum lot area can be sustainably serviced.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Official Plan Amendment and Zoning By-law Amendment be denied the applicant would not be able to fulfil the conditions of the approved Consent Applications FL/B-20:86 and the proposed lot adjustment could not proceed.

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.

SUBJECT: Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for lands 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough (PED22020) (Ward 14) - Page 17 of 17

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.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Location Map

Appendix "B" – Official Plan Amendment

Appendix "C" – Amendment to Zoning By-law No. 05-200

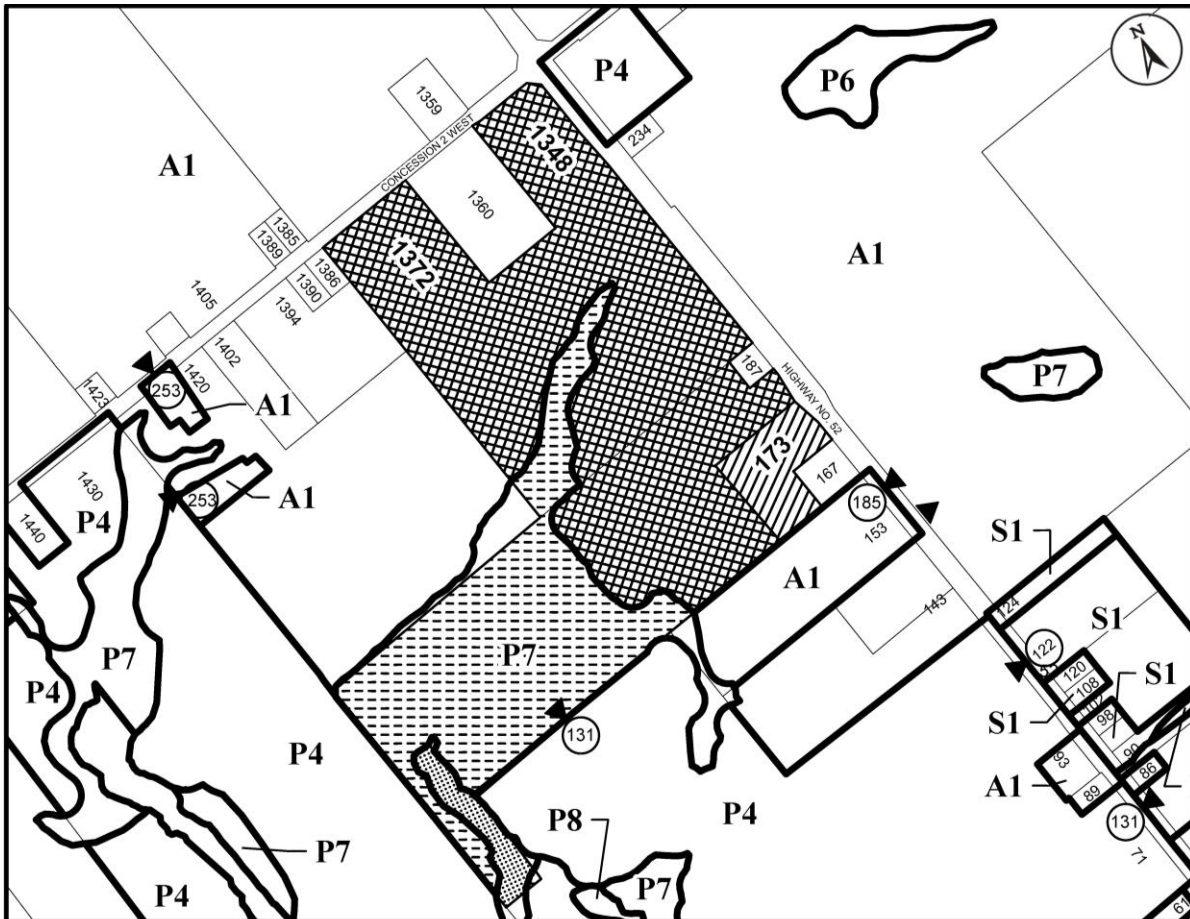
Appendix "D" – Notice of Decision for FL/B-20:86

Appendix "E" – Public Comments

Appendix "F" – Applicant's Sketch

CT:sd

Appendix "A" to Report PED22020
Page 1 of 1



<p>● Site Location</p> <p>Key Map - Ward 12</p>	<div style="text-align: center;"> <h2 style="margin: 0;">Location Map</h2> <p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p> </div> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 60%;">File Name/Number: ZAC-21-040/RHOPA-21-017</td> <td style="width: 40%;">Date: January 19, 2022</td> </tr> <tr> <td style="width: 40%;">Appendix "A"</td> <td style="width: 20%;">Scale: N.T.S</td> <td style="width: 40%;">Planner/Technician: CT/NB</td> </tr> </table> <p>Subject Property 173 Highway No. 52 and 1348 and 1372 Concession 2 Road West</p> <ul style="list-style-type: none"> Block 1 - Change in Zoning from Agriculture (A1) to Agriculture (A1, 762) Zone Block 2 - Change in Zoning from Agriculture (A1) to Agriculture (A1, 762) Zone Block 3 - Change in Zoning from Conservation/Hazard Land Rural (P7) Zone to Conservation/Hazard Land Rural (P7, 762) Zone Block 4 - Change in Zoning from Conservation/Hazard Land Rural (P8) Zone to Conservation/Hazard Land Rural (P8, 762) Zone 	File Name/Number: ZAC-21-040/RHOPA-21-017	Date: January 19, 2022	Appendix "A"	Scale: N.T.S	Planner/Technician: CT/NB
File Name/Number: ZAC-21-040/RHOPA-21-017	Date: January 19, 2022					
Appendix "A"	Scale: N.T.S	Planner/Technician: CT/NB				

DRAFT Rural Hamilton Official Plan Amendment No. X

The following text, together with Appendix "A" – Volume 3: Appendix A – Site Specific Area Key Map, attached hereto, constitutes Official Plan Amendment No. "X" to the Rural Hamilton Official Plan.

1.0 **Purpose and Effect:**

The purpose and effect of this Amendment is to establish a Rural Site Specific Area in order to permit reduced lot areas for two Agricultural designated lots.

2.0 **Location:**

The lands affected by this Amendment are known municipally as 173 Highway 52 and 1348 and 1372 Concession 2 West, in the former Township of Flamborough.

3.0 **Basis:**

The basis for permitting this Amendment is to facilitate the implementation of the conditions of Committee of Adjustment application FL/B-20:86 in order to allow a Lot Line Adjustment that results in two undersized Agriculture lots.

4.0 **Actual Changes:**

4.1 **Volume 3 – Special Policy and Site Specific Areas**

Text

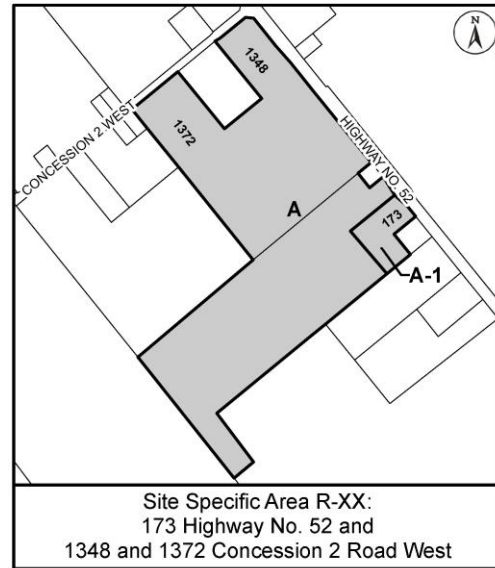
4.1.1 **Chapter B – Rural Site Specific Areas**

- a. That Volume 3: Chapter B – Rural Site Specific Areas be amended by adding a new Site Specific Area, as follows:

"R-XX Lands located at 173 Highway 52 and 1348 and 1372 Concession 2 West, former Township of Flamborough

Notwithstanding Policy F.1.14.2.5 c) of Volume 1, the property known municipally as 1348 and 1372 Concession 2 West, Flamborough, identified as Parcel "A" on the inset map, designated Agriculture on Schedule "D" – Rural Land Use Designations, shall not be less than 37.17 hectares.

1.0 Notwithstanding Policy F.1.14.2.5 c) of Volume 1, the property known municipally as 173 Highway 52, Flamborough, identified as Parcel "A-1" on the inset map, designated Agriculture on Schedule "D" – Rural Land Use Designations, shall not be less than 1.14 hectares."



Schedules and Appendices

4.1.2 Appendix

- a. That Volume 3: Appendix A – Site Specific Area Key Map be amended by identifying the lands municipally known as 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, Flamborough as Site Specific Area R-XX, as shown on Appendix "A", attached to this Amendment.

5.0 Implementation:

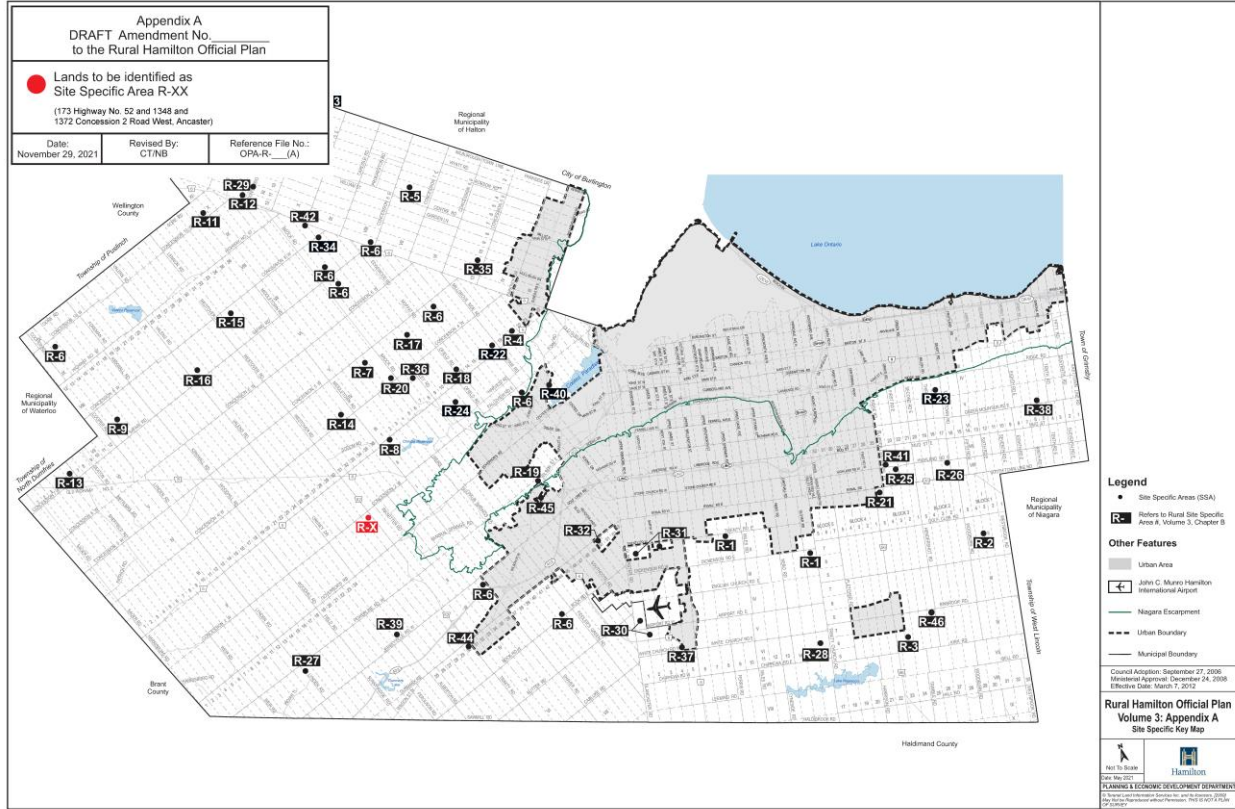
An implementing Zoning By-Law Amendment will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule "1" to By-law No. ____ passed on the _____th of _____, 2022.

**The
City of Hamilton**

F. Eisenberger
MAYOR

A. Holland
CITY CLERK



Appendix “C” to Report PED22020
Page 1 of 4

Authority: Item ,
 Report (PED22020)
 CM:
 Ward:

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 05-200
Respecting Lands Located at 173 Highway 52, 1348 Concession 2 West and 1372
Concession 2 West, Hamilton

WHEREAS Council approved Item _____ of Report PED22020 of the Planning Committee at its meeting held on the _____th day of _____, 2022;

AND WHEREAS this By-law conforms with the Rural Hamilton Official Plan upon adoption of Official Plan Amendment No. _____.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. 104 and No. 113 of Schedule “A” – Zoning Maps of Zoning By-law No. 05-200, is amended by changing the zoning from Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to Agriculture (A1, 762) Zone, Conservation/Hazard Land-Rural (P7, 762) Zone and Conservation/Hazard Land-Rural (P8, 762) Zone the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A” to the By-law.
2. That Schedule “C”: Special Exceptions is amended by adding the following new Special Exception:
 - “762. Within the lands zoned Agriculture (A1) Zone, identified on Maps No. 104 and No. 113 of Schedule “A” – Zoning Maps and described as 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West, the following shall apply:
 - 1) Notwithstanding Section 12.1.3.1a), the minimum lot area shall be 1.14 hectares for Block 1 and 37.17 hectares for Blocks 2, 3 and 4 as shown on Figure 25.
3. That Schedule F: Special Figures of By-law No. 05-200 is hereby amended by adding Figure 25: 173 Highway 52, 1348 Concession 2 West and 1372 Concession 2 West.

Appendix "C" to Report PED22020

Page 2 of 4

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

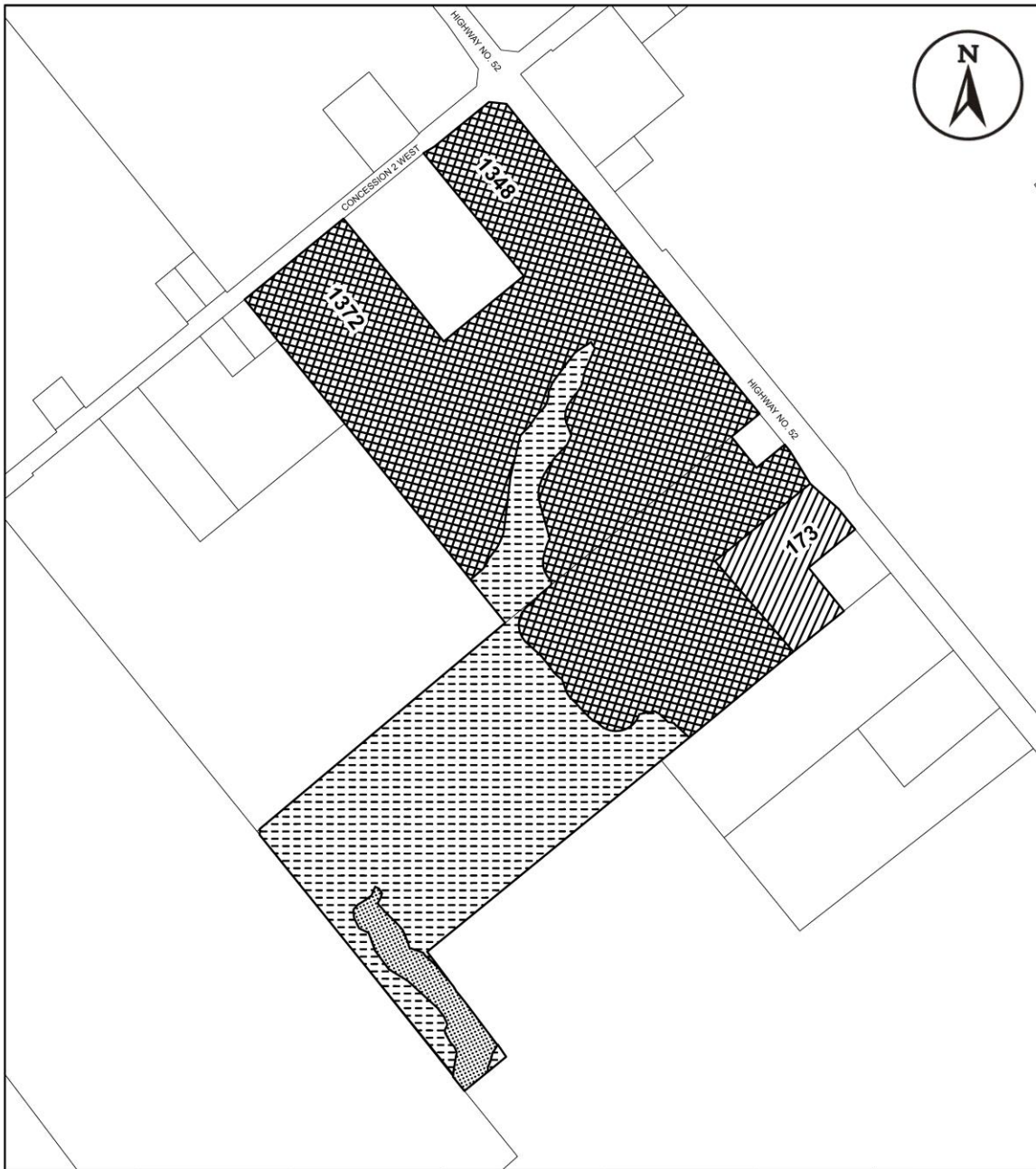
PASSED this _____, 2022

F. Eisenberger
Mayor

A. Holland
City Clerk





RHOPA-21-017 and ZAR-21-040

Appendix "C" to Report PED2020
Page 3 of 4



Special Figure 25: 173 Highway No. 52 and 1348 and 1372 Concession 2 Road West

Date:
January 19, 2022

-  Block 1 - Change in Zoning from Agriculture (A1) to Agriculture (A1, 762) Zone
-  Block 2 - Change in Zoning from Agriculture (A1) to Agriculture (A1, 762) Zone
-  Block 3 - Change in Zoning from Conservation/Hazard Land Rural (P7) Zone to Conservation/Hazard Land Rural (P7, 762) Zone
-  Block 4 - Change in Zoning from Conservation/Hazard Land Rural (P8) Zone to Conservation/Hazard Land Rural (P8, 762) Zone



Appendix "C" to Report PED22020
Page 4 of 4

For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law

Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning Committee Report No.: PED22020 Date:
Ward(s) or City Wide: Ward 12 (01/27/2021)

Prepared by: Charlie Toman, SPM Phone No: 365.324.2732

For Office Use Only, this doesn't appear in the by-law



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424
ext. 4221, 3935
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENTLAND SEVERANCE

APPLICATION NO. FL/B-20:86
SUBMISSION NO. B-86/20

APPLICATION NUMBER: FL/B-20:86

SUBJECT PROPERTY: 173 Highway 52, Flamborough

APPLICANT(S): Owners: Jacob and Cassidy DeJong
Agent: Don Robertson

PURPOSE OF APPLICATION: To sever agricultural lands to be added to adjacent agricultural lands (1372 Concession 2 W.) and to retain lands containing an existing single family dwelling.

Severed lands:
62m[±] x 811m[±] and an area of 19.22 ha[±]

Retained lands:
140m[±] x 117m[±] and an area of 1.15 ha[±]

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED**, for the following reasons:

1. The proposal does not conflict with the intent of the Rural Hamilton Official Plan.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be 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 pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)

FL/B-20:86
Page 2

3. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
4. The owner shall receive final approval 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).
5. The owner shall submit survey evidence that the lands to be severed and retained, including the location of any existing structure, lot coverage etc., conform to 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).
6. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Building Engineering Section).
7. The owner shall demolish the existing farm buildings on the retained residential lot, to the satisfaction of the Planning and Economic Development Department.
8. The applicant shall submit and receive final and binding approval of a Zoning By-law Amendment Application for the subject lands to the satisfaction of the Manager, Development Planning Heritage & Design.
9. The applicant shall submit and receive final and binding approval of an Official Plan Amendment Application for the subject lands to the satisfaction of the Manager, Development Planning Heritage & Design.
10. The owner must merge the severed agricultural lot (19.22 ha) with the vacant agricultural lot at 1372 Concession 2 W., to the satisfaction of the Manager, Development Planning Heritage & Design.

DATED AT HAMILTON this 21st day of January, 2021.

M. Dudzic (Chairman)

N. Mleczko

D. Serwatak

L. Gaddy

D. Smith

B. Charters

M. Switzer

T. Lofchik

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS January 28th, 2021. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (January 28th, 2022) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE LOCAL PLANNING APPEAL TRIBUNAL (LPAT) MAY BE FILED IS **February 17th, 2021**

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

October 14, 2021

Mr. Charlie Toman
City of Hamilton
Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Mr. Toman:

We are writing in response to the notice we received regarding the zoning and by-law amendment affecting 173 Highway 52, Flamborough. (File numbers: RHOPA-21-017, ZAC-21-040). While we have no objection to the amendment itself, we are writing to clarify the establishment of precedent.

The proposed property severance comes as no surprise to the owners of adjacent properties. When the property changed hands last year, the previous owner expressed concern that the property would be severed, with the severed portion being converted for commercial use. We now find ourselves in the process of fulfilling this very prophecy.

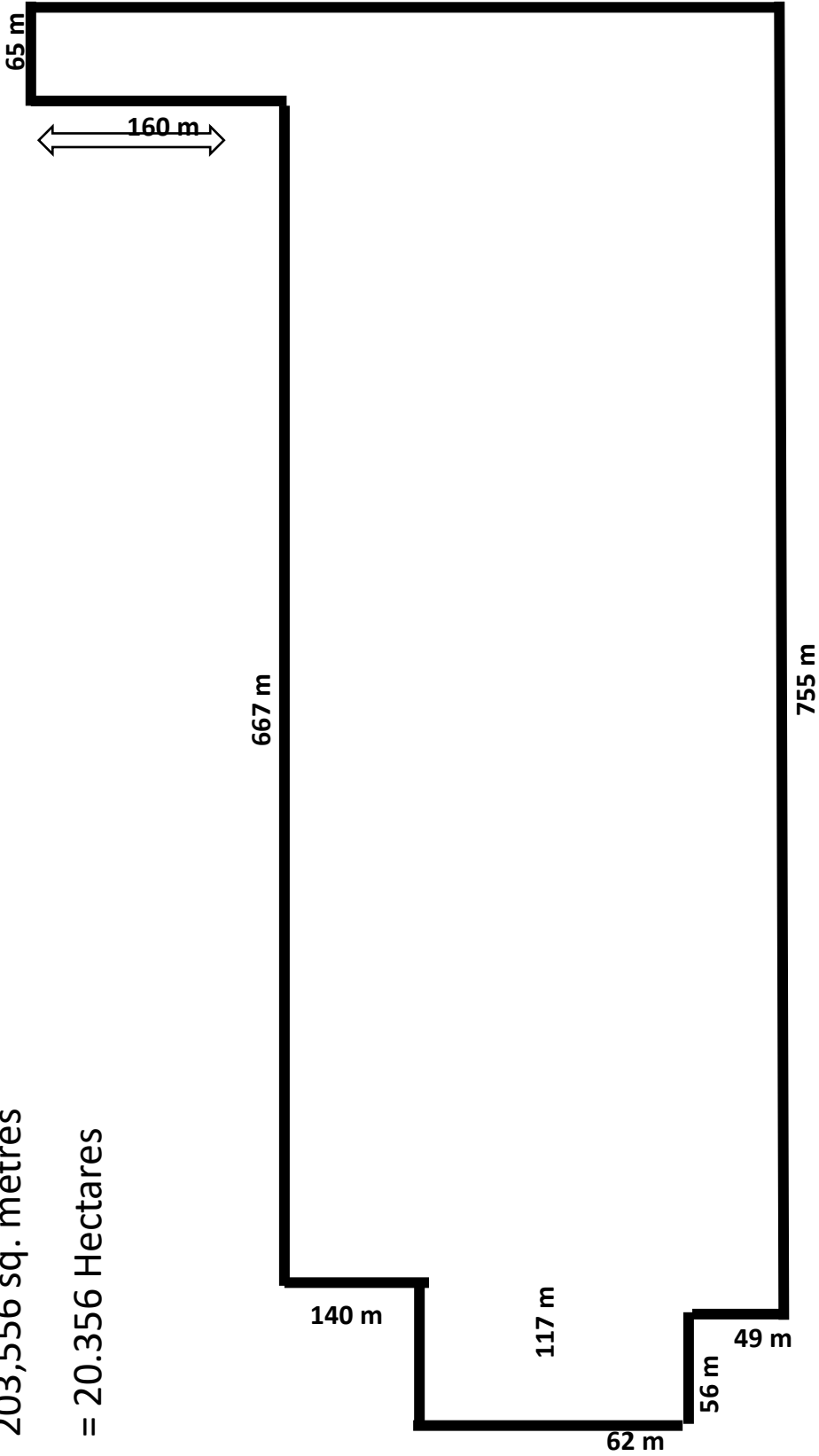
We worry that the ease with which this amendment is being processed is not based in objectivity but is instead strongly influenced by the reputation of the applicants. We expect that any future requests from adjacent property owners will be treated with identical levels of cooperation from the City of Hamilton. This case has set a new precedent, and we will insist that any future requests be considered through this lens. All adjacent properties owners should have the right to sever their agricultural lands, should the City value equity and equality to any degree.

Thank you in advance for your time and consideration.

Sincerely,

PRESENT LOT

203,556 sq. metres
= 20.356 Hectares



Hwy 52

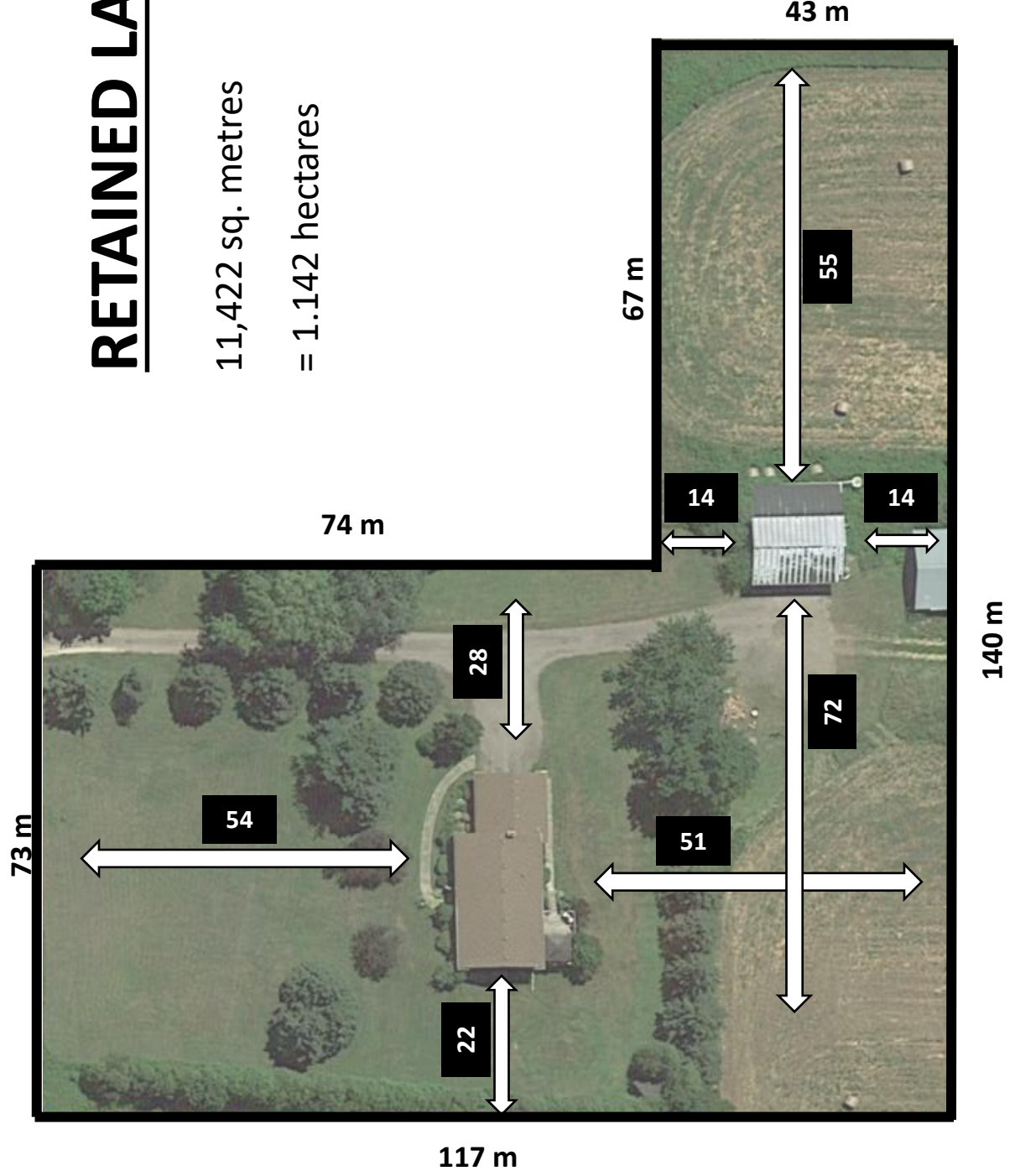


Hwy 52



RETAINED LAND

11,422 sq. metres
= 1.142 hectares

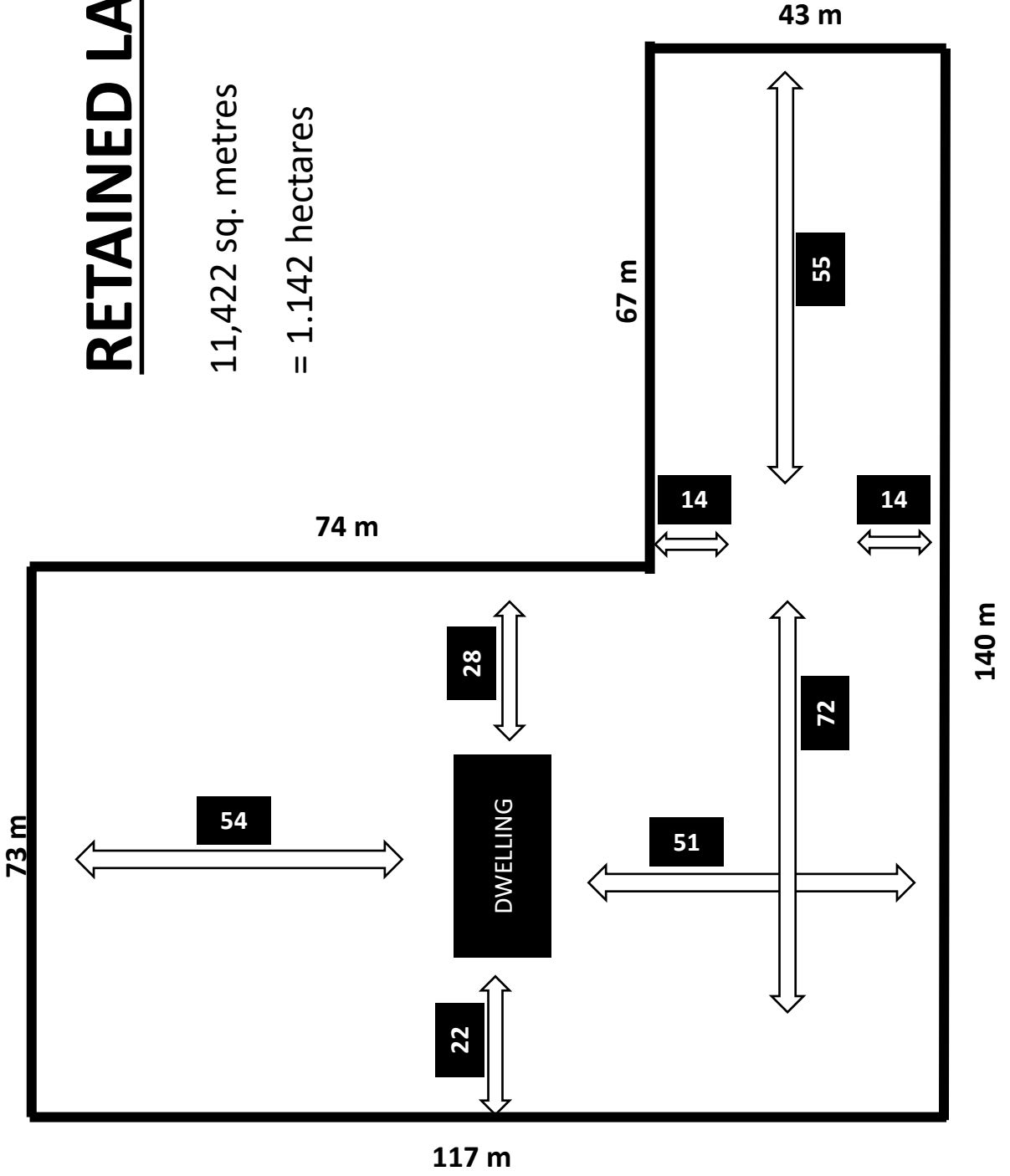


Hwy 52



RETAINED LAND

11,422 sq. metres
= 1.142 hectares



SEVERED LAND

192, 134 sq. metres

= 19.213 Hectares



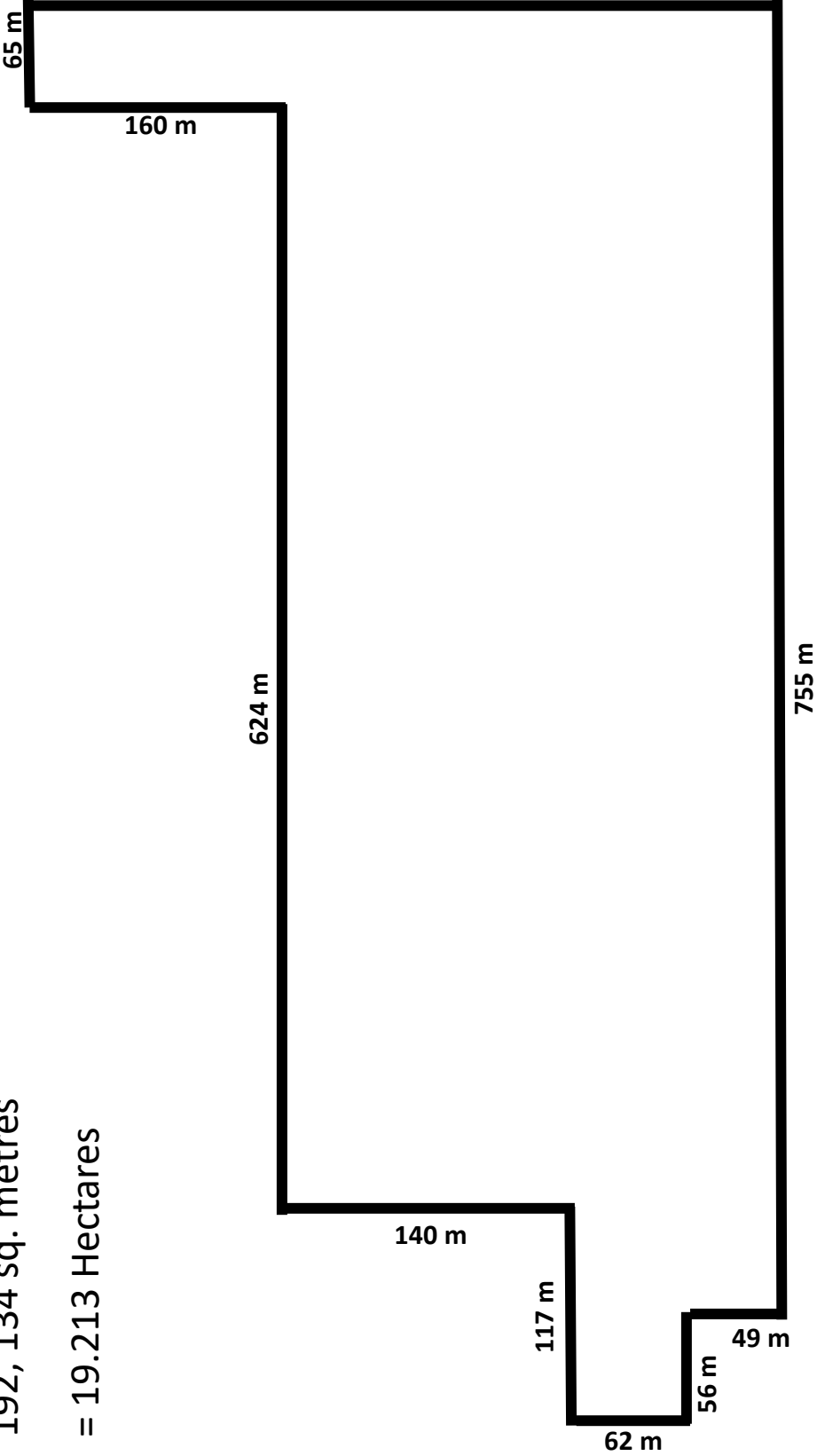
Hwy 52

407 m

SEVERED LAND

192, 134 sq. metres

= 19.213 Hectares

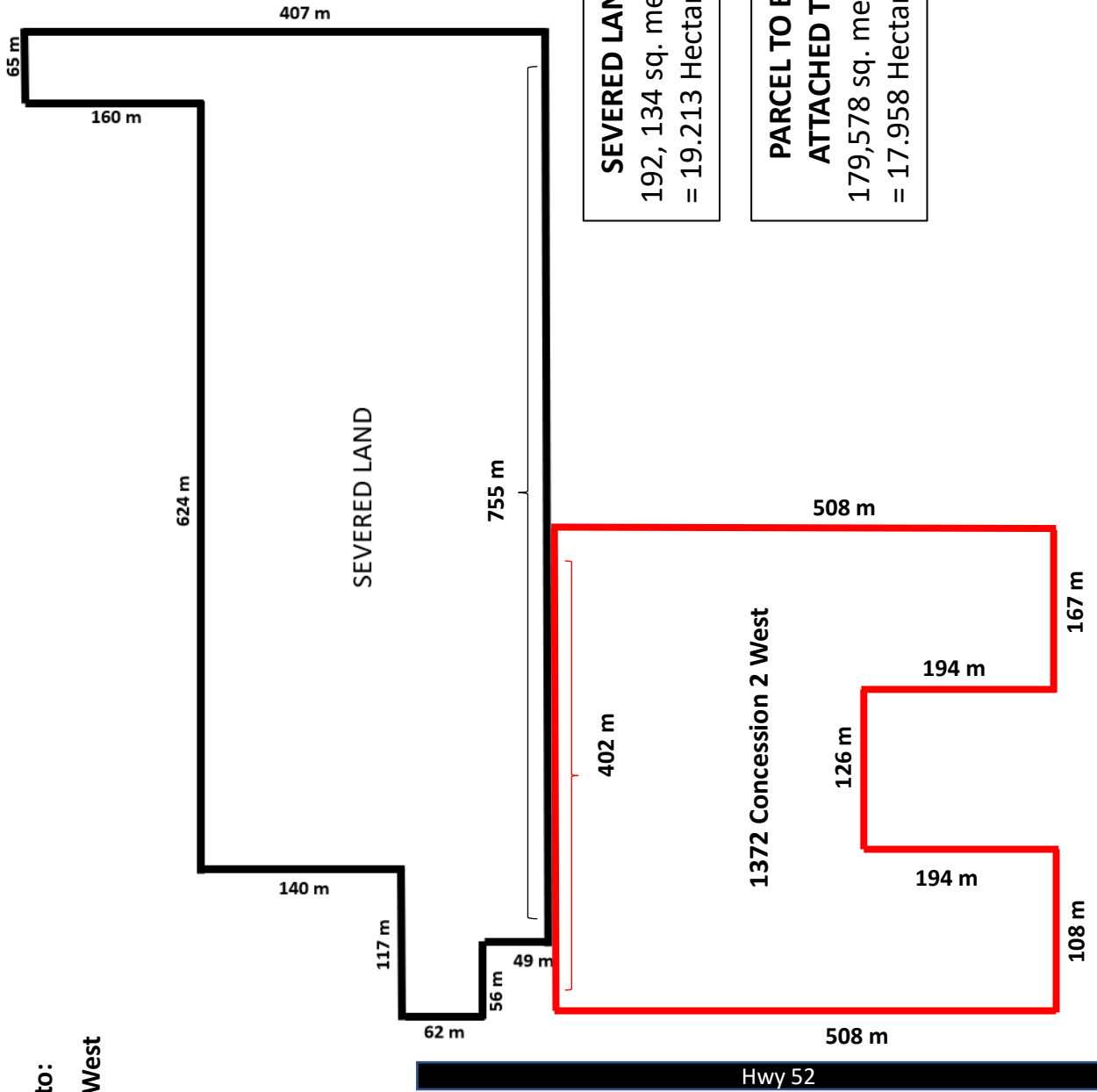


Hwy 52



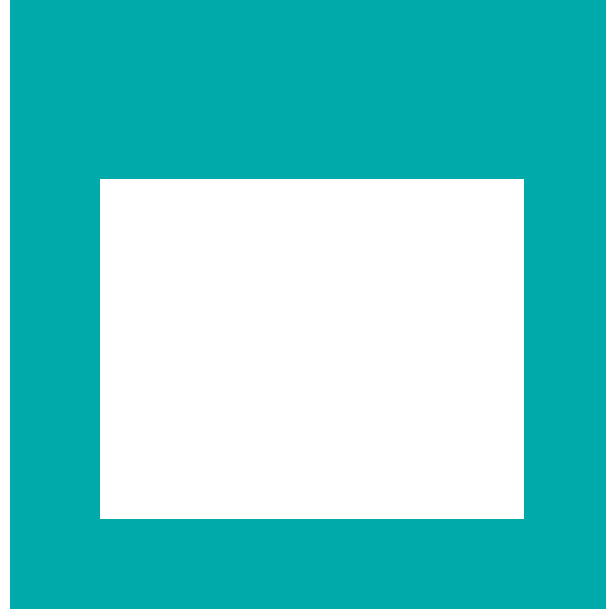
SEVERED LAND + PARCEL TO BE ATTACHED TO

- Parcel to be attached to:
- 1372 Concession 2 West



SEVERED LAND:
192, 134 sq. metres
= 19.213 Hectares

PARCEL TO BE ATTACHED TO:
179,578 sq. metres
= 17.958 Hectares



WELCOME TO THE CITY OF HAMILTON

PLANNING COMMITTEE

February 15, 2022

PED22020– (ZAC-21-040 / RHOPA-21-017)

Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law
Amendment for Lands Located at

173 Highway 52, 1372 Concession 2 West and 1348 Concession 2 West, Flamborough

Presented by: Charlie Toman



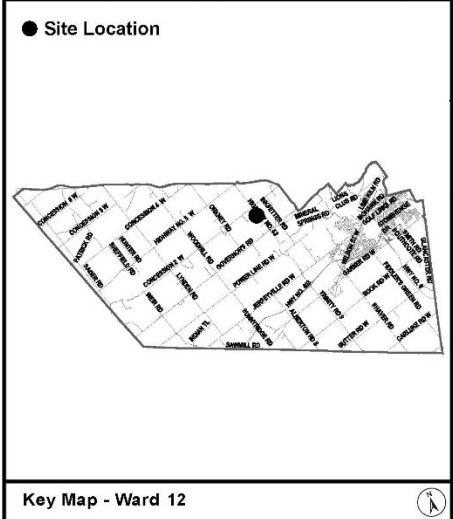
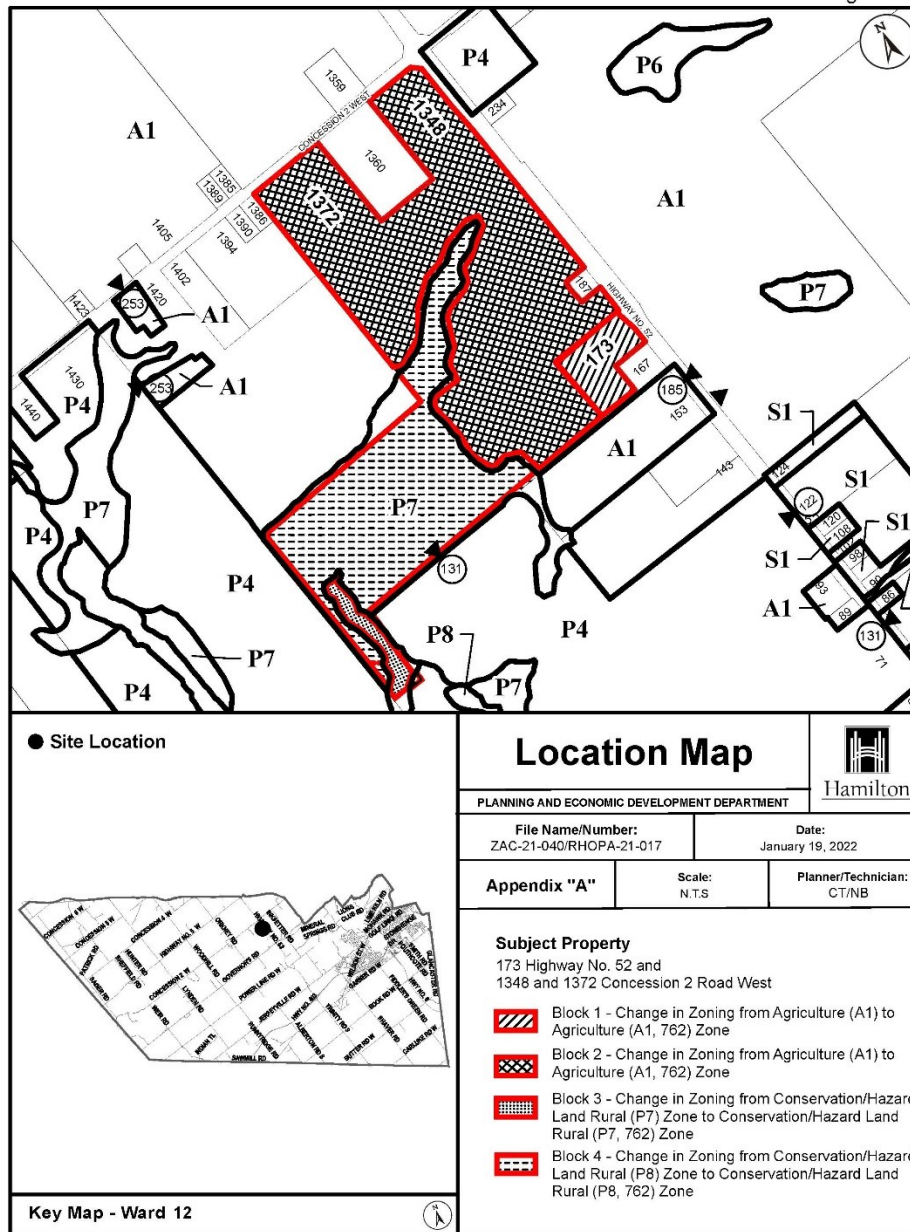
SUBJECT PROPERTY



**173 Highway No. 52 & 1348 and 1372 Concession 2 Road West,
Flamborough**

Background

- January 21, 2021 – Committee of Adjustment conditional approve Consent application FL/B-20:86
- Planning staff appealed decision to Local Planning Appeal Tribunal
- May 18, 2021 – Planning Committee provide direction to withdraw appeal.
- September 20, 2021 - the Rural Hamilton Official Plan and Zoning Bylaw Amendment applications were deemed complete.

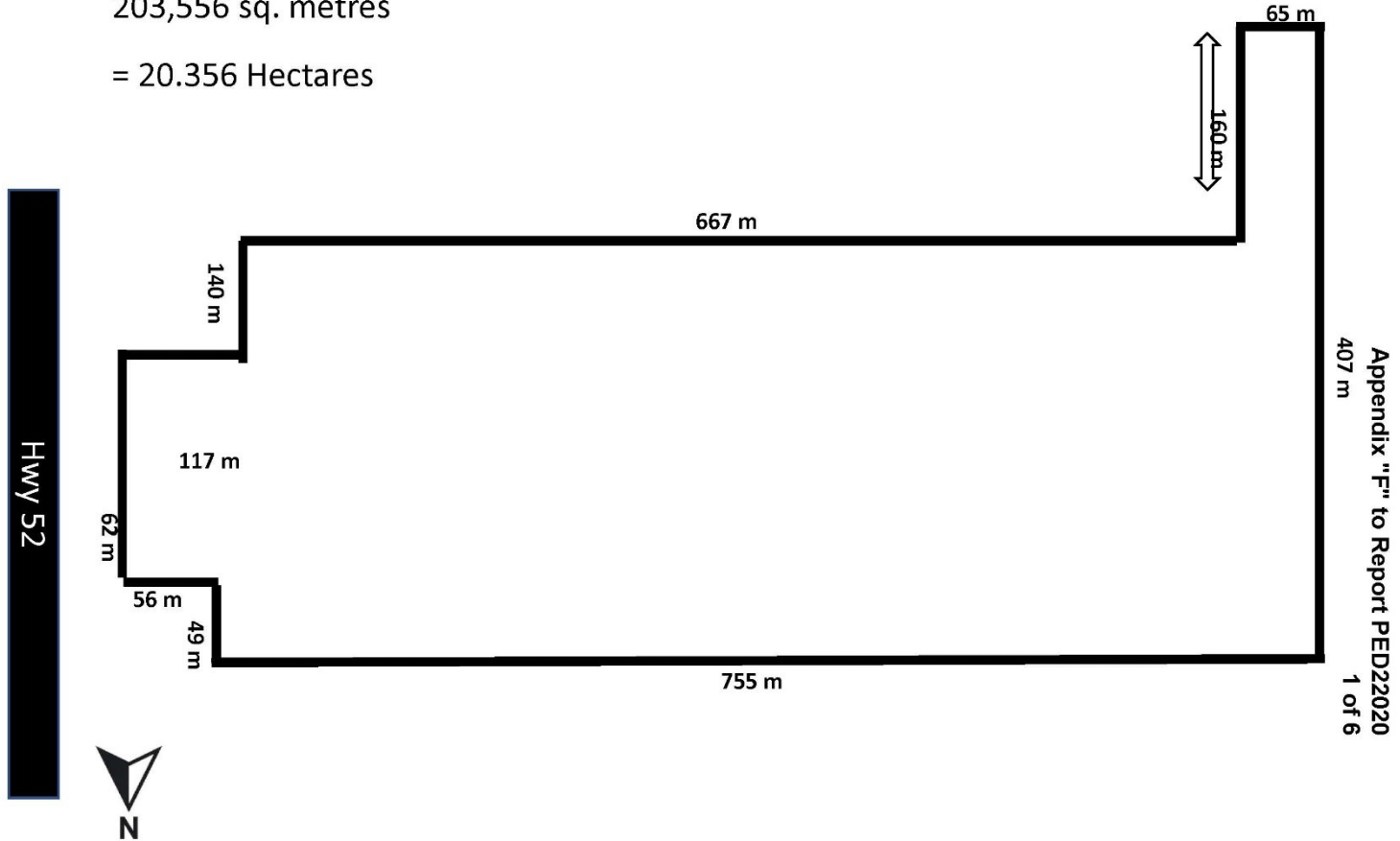


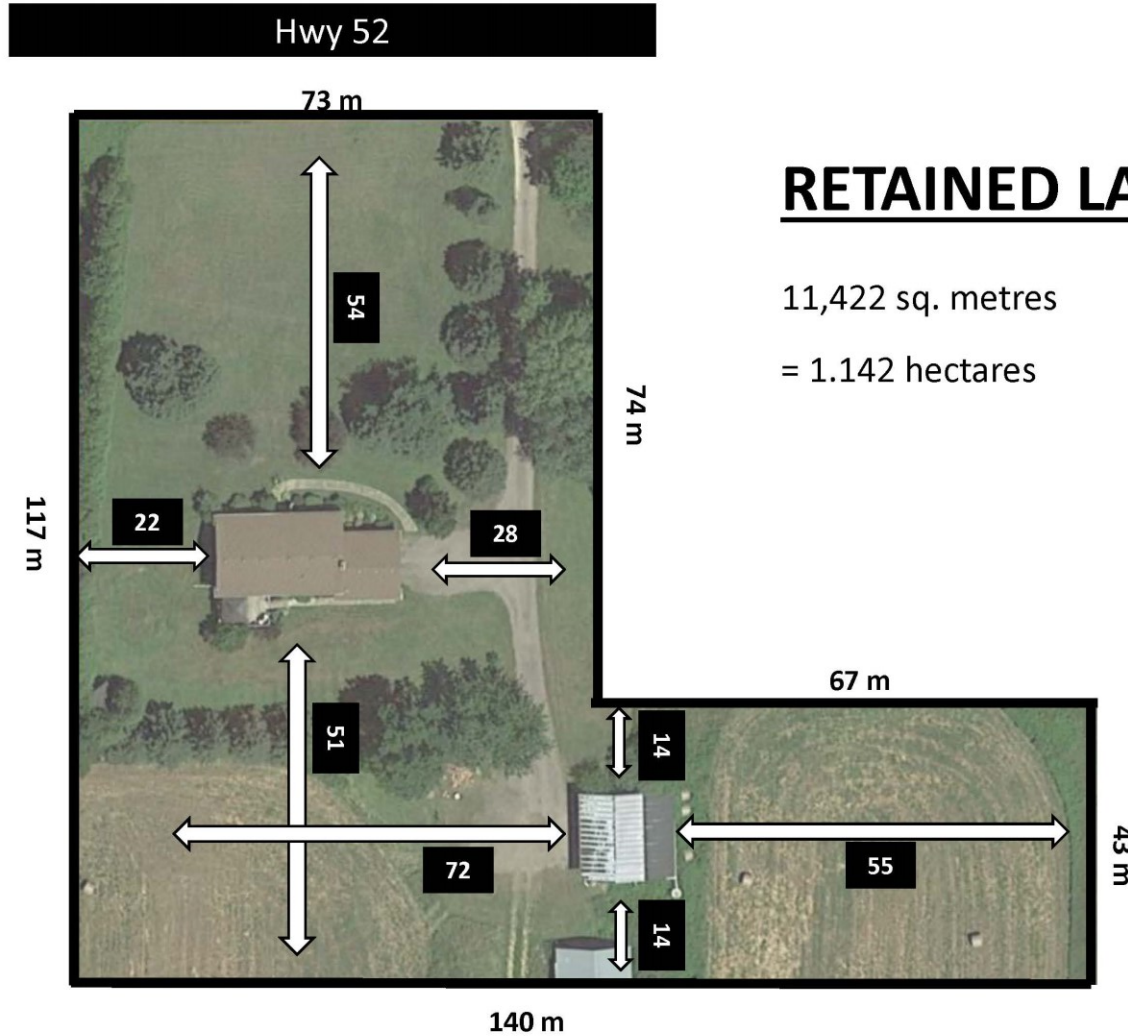
Location Map		
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: ZAC-21-040/RHOPA-21-017	Date: January 19, 2022	
Appendix "A"	Scale: N.T.S	Planner/Technician: CT/NB
<p>Subject Property 173 Highway No. 52 and 1348 and 1372 Concession 2 Road West</p> <ul style="list-style-type: none"> Block 1 - Change in Zoning from Agriculture (A1) to Agriculture (A1, 762) Zone Block 2 - Change in Zoning from Agriculture (A1) to Agriculture (A1, 762) Zone Block 3 - Change in Zoning from Conservation/Hazard Land Rural (P7) Zone to Conservation/Hazard Land Rural (P7, 762) Zone Block 4 - Change in Zoning from Conservation/Hazard Land Rural (P8) Zone to Conservation/Hazard Land Rural (P8, 762) Zone 		

PRESENT LOT

203,556 sq. metres

= 20.356 Hectares





RETAINED LAND

11,422 sq. metres
= 1.142 hectares

Appendix "F" to Report PE2020
2 of 6

SEVERED LAND

192, 134 sq. metres

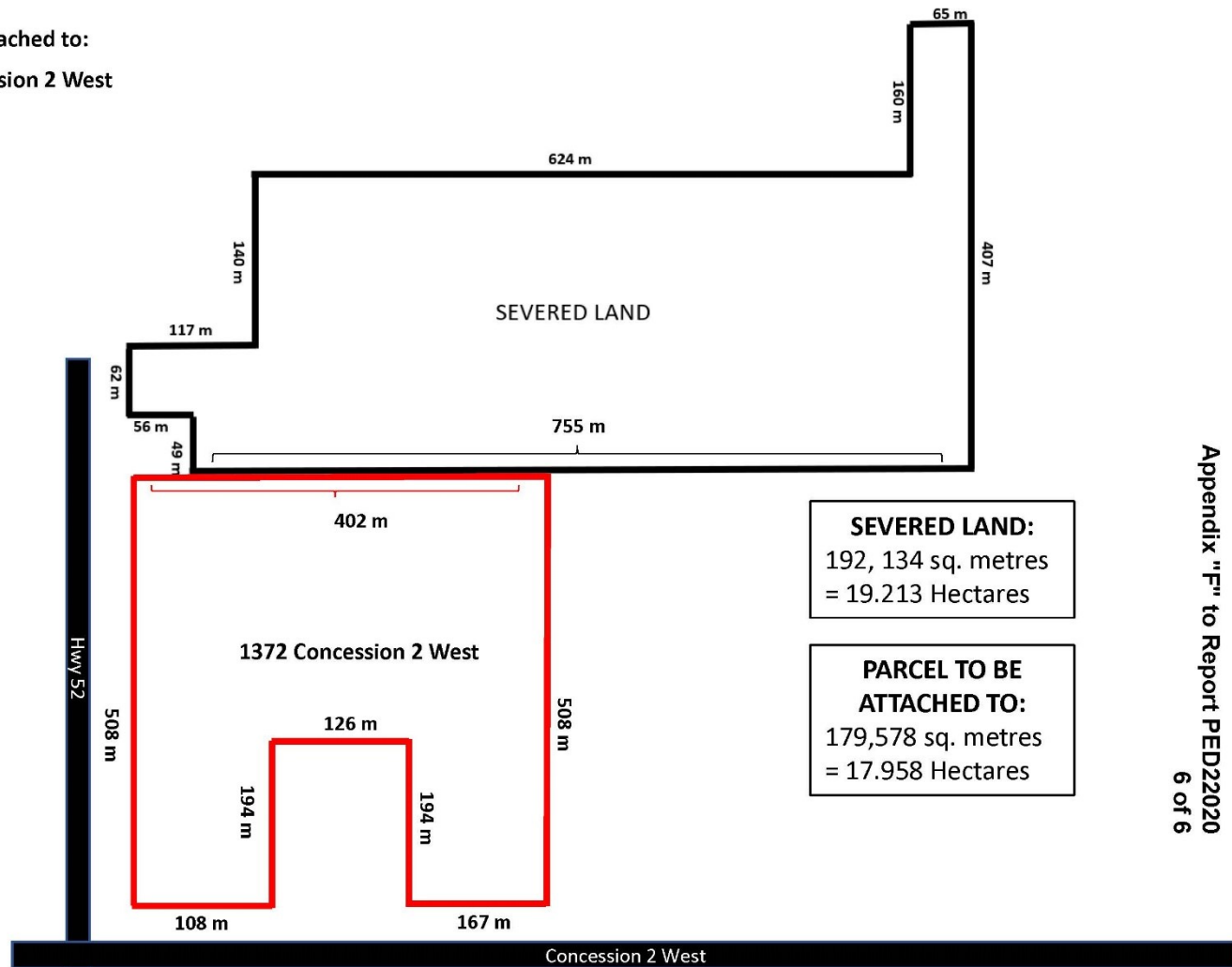
= 19.213 Hectares



SEVERED LAND + PARCEL TO BE ATTACHED TO

Parcel to be attached to:

- 1372 Concession 2 West



Appendix "F" to Report PED2020
 6 of 6



173 Highway 52 looking north from Highway 52



1348 and 1372 Concession 2 N from the north



1372 Concession 2 West looking west from Concession 2 West



Existing Dwelling at 173 Highway 52 looking west from Highway 52



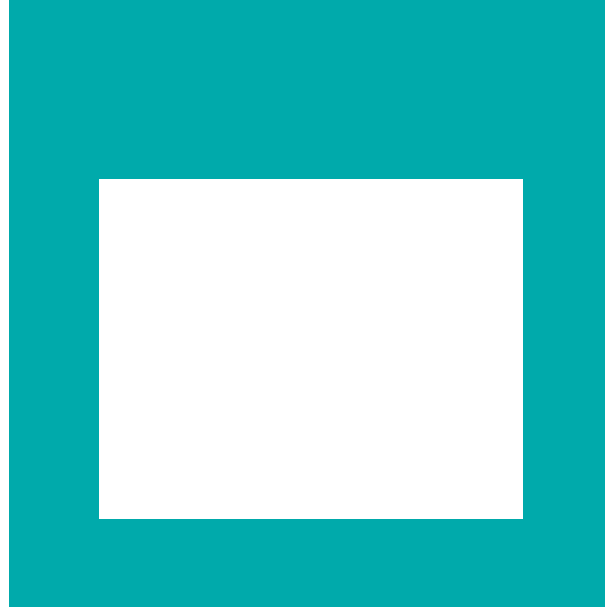
Looking south from Highway 52



Looking north from Highway 52



Looking south-west from intersection of Highway 52 and Concession 2 West



THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 15, 2022
SUBJECT/REPORT NO:	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2)
WARD AFFECTED:	Ward 2
PREPARED BY:	Mark Kehler (905) 546-2424 Ext. 4148
SUBMITTED BY:	Stephen Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Report PED22031, together with any written submissions and input from delegations on Official Plan Amendment Application No. UHOPA-22-001 and Zoning By-law Amendment Application No. ZAC-22-003 be received at Planning Committee be referred to staff for consideration and incorporated into a future Recommendation Report to Planning Committee;
- (b) That staff advise the Applicant that the Applicant is to undertake the Council endorsed Implementation Process for a Tall Building Proposal – Pier 8 Block 16 (attached as Appendix “B” to Report PED22031) including a stakeholder engagement and special design process to develop three alternative designs for the proposed tower that address innovation in the areas of sustainability, quality of life and design excellence.

EXECUTIVE SUMMARY

The Owner, the City of Hamilton, Municipal Land Development Office, has applied for an Official Plan Amendment and Zoning By-law Amendment to permit a 45 storey (147 metre) multiple dwelling on lands located at 65 Guise Street East (Pier 8, Block 16),

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 2 of 14

Hamilton (see Appendix “C” attached to Report PED22031). The subject lands are known as Block 16 of Pier 8 which forms part of the property municipally known at 65 Guise Street East which is located north of Guise Street East between Discovery Drive and Catharine Street North in the North End Neighbourhood. The Pier 8 lands are owned by the City of Hamilton with Waterfront Shores Corporation (WSC) being the developer as chosen through the Pier 8 Development Request for Proposal (RFP) Process.

To comply with the terms of Minutes of Settlement to resolve appeals respecting the implementing Zoning By-law and Plan of Subdivision for the Pier 7 and 8 lands (Case No. PL170742), City staff have undertaken a two phased planning process for the Block 16 lands that began with Phase 1 – Pier 8 Block 16 Study and Urban Design Guidelines. The Pier 8 Block 16 Study tested various mid-rise and high-rise built form scenarios using the Vision and Guiding Principles established in the Pier 7 + 8 Urban Design Study (2016). On August 13, 2021, City Council adopted the Pier 8 Block 16 Urban Design Guidelines (Report PED21018) which established an evaluation framework for the proposed Official Plan Amendment and Zoning By-law Amendment Applications which are Phase 2 of the Block 16 planning process.

The proposed development consists of two connected tower forms above a two-storey podium (see Appendix “C” to Report PED 22031). A larger circular tower form is proposed to a height of 45 storeys (147.0 metres) with a smaller connected tower form proposed up to 31 storeys. Parking is proposed to be located underground with amenity provided indoors, at grade and within an outdoor terrace at the 31 storey. The proposed Zoning By-law Amendment includes local commercial and institutional uses at grade with residential units occupying the remainder of the building. The amending By-law includes a maximum gross floor area of 850 square metres for floors four to 30, a maximum gross floor area of 650 square metres for floors 31 and up, and a maximum gross constructed area (including above grade mechanical areas) of 38,200 square metres. A total of 1,645 dwelling units are permitted for the entire Pier 8 lands, of which a minimum 396 would be required to be family sized units (two or more bedrooms). The final design is intended to be determined through a special design process that includes developing three alternative tower designs that address innovation in the areas of sustainability, quality of life and design excellence.

The Pier 8 Block 16 Urban Design Guidelines included an Implementation Process for a Tall Building Proposal (attached as Appendix “B” to Report PED22031) that included a Statutory Public Meeting in advance of a final recommendation report to Planning Committee on adoption of the proposed Official Plan Amendment and Zoning By-law Amendment (expected to occur in September 2022). The purpose of this Report and Statutory Public Meeting is to present the Applications and to allow for the public to provide feedback and input on the proposed Official Plan Amendment and Zoning By-law Amendment Applications to propose a tall building on the subject lands. In addition,

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 3 of 14

the Implementation Process for a Tall Building Proposal requires that Council approval or deny a special design process to develop and evaluate three alternative tower designs addressing innovation in the areas of sustainability, quality of life and design excellence (recommendation (b) of Report PED22031). Upon completion of the special design process, technical review and receipt of all public and agency comments, staff will bring forward a Recommendation Report to Planning Committee for further consideration at which time Council can approve or deny a tall building on the subject lands.

Alternatives for Consideration – See Page 13

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one public meeting to consider an Application for an amendment to the Official Plan and Zoning By-law.

HISTORICAL BACKGROUND

The subject lands are known as Block 16 of Pier 8 located at 65 Guise Street East, Hamilton (see Appendix “A” attached to Report PED22031). The lands are owned by the City of Hamilton and the City has selected Waterfront Shores Corporation (WSC) to be the developer of the lands through the Pier 8 Development Opportunity RFP Process. On September 16, 2019, the City executed Minutes of Settlement between the City, WSC, Harbour West Neighbours Inc. (HWN) and Herman Turkstra to resolve appeals filed by HWN and Herman Turkstra respecting Zoning By-law No. 17-095 and draft Plan of Subdivision 25T- 201605 which implemented the West Harbour “Setting Sail” Secondary Plan as it applies to the Pier 7 and 8 lands (Case No. PL170742).

Minutes of Settlement

In the Minutes of Settlement the parties agreed that the City shall bring forward an Official Plan Amendment (OPA) to consider the re-designation of the Block 16 lands from Institutional in the West Harbour “Setting Sail” Secondary Plan to permit a residential or mixed-use building in a mid-rise or high-rise built form. The City agreed to consider the OPA and an implementing Zoning By-law Amendment at Planning Committee and Council within 12 months of execution of the minutes of settlement. Due to the impact of the Covid-19 pandemic on the City’s ability to consult with the community, all parties agreed to a request by the City to extend the timeframe to

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 4 of 14

consider an OPA and Zoning By-law Amendment. The Minutes of Settlement included the following additional requirements, amongst others:

- That there will be no change in the maximum number of dwelling units permitted on Pier 8 (1,645 units);
- A minimum of 15% of the dwelling units developed on Pier 8 shall be family units (defined as dwelling units with two or more bedrooms) which would equal 245 units; and,
- That the number of family units required on the Pier 8 lands shall increase based on the number of storeys approved through the Block 16 Official Plan Amendment and Zoning By-law Amendment, as follows:

Change in Height (additional storeys)	Additional Family Units	Total Family Units
No change in height	0	246
+ 4 storeys	25	271
+ 5 to 11 storeys	50	296
+12 to 19 storeys	75	321
+20 to 30 storeys	100	346
31+ storeys	150	396

The additional family units may be provided within Block 16 or elsewhere within Pier 8, at the discretion of the developer (WSC) and the cap of 1,645 units remains as a hard cap on the total number of units to be developed on Pier 8.

To comply with the Minutes of Settlement, City staff have undertaken a two phased planning process beginning with the Pier 8 Block 16 Study and Urban Design Guidelines followed by the proposed OPA and Zoning By-law Amendment Applications that may proceed according to a Council adopted implementation process for a tall building proposal (subject to further direction by Planning Committee and Council). Under the Minutes of Settlement, the City did not commit to approving additional building height on Block 16.

Pier 8 Block 16 Study and Urban Design Guidelines

The City retained the consulting firm Brook-McIlroy, the authors of the Pier 7 and 8 Urban Design Study (2016), to complete the Pier 8 Block 16 Study and develop performance standards and criteria to assist Council and staff when evaluating development Applications proposing to change the current height permissions for Block 16. The Study process included public consultation in the form of meetings with neighbourhood associations, a project webpage and EngageHamilton website and a virtual public information session which was held on November 5, 2020. A Staff

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 5 of 14

Technical Advisory Committee and the City of Hamilton Design Review Panel were also engaged to provide feedback.

The Study resulted in the Pier 8 Block 16 Urban Design Guidelines which provide universal design objectives for Block 16 and guidelines for both a mid-rise (5 to 12 storeys) scenario and a tall building (greater than 12 storeys up to a maximum of 45 storeys) scenario. The Vision and Guiding Principles of the Guidelines include an objective that a tall building proposal be designed to standards of exceptional quality and design excellence to create a metropolitan/regional level landmark in the Hamilton Harbour. To achieve this objective, the Guidelines recommend a special design process be required for a tall building proposal that includes developing three design options that address innovation in the areas of quality of life, sustainability and design excellence, with the preferred design option ultimately considered by Planning Committee and Council for adoption.

On August 13, 2021, Council adopted the Pier 8 Block 16 Urban Design Guidelines, including an Implementation Process for a Tall Building Proposal (Report PED21018).

Report Fact Sheet

Application Details	
Owner:	City of Hamilton, Municipal Land Development Office
Applicant:	WEBB Planning Consultants c/o James Webb
File Numbers:	UHOPA-22-001 and ZAC-22-003
Type of Application:	Official Plan Amendment and Zoning By-law Amendment
Proposal:	To permit a multiple dwelling with a maximum building height of 45 storeys (147.0 metres) consisting of two connected tower forms above a two-storey podium. A larger circular tower form is proposed to a height of 45 storeys (147.0 metres) with a smaller connected tower form proposed up to 31 storeys. Parking is proposed to be located underground with amenity provided indoors, at grade and within an outdoor terrace at storey 31.
Studies Received:	<ul style="list-style-type: none"> • Planning Justification Report; • Urban Design Brief; • Noise Feasibility Study; and, • Pedestrian Level Wind Study.

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 6 of 14

Property Details	
Municipal Address:	65 Guise Street East (Pier 8, Block 16), Hamilton
Lot Area:	0.35 hectares (3,500 square metres).
Servicing:	Existing municipal services.
Existing Use:	Surface parking lot.
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS.
A Place to Grow	The proposal conforms to the Growth Plan, as amended.
Official Plan Existing:	Urban Area (Hamilton Wentworth Official Plan) and "Institutional" in the West Harbour (Setting Sail) Secondary Plan in the former City of Hamilton Official Plan.
Official Plan Proposed:	"High Density Residential" with a Special Policy Area to permit a maximum building height of 45 storeys.
Zoning Existing:	Community Institutional (I2, 486, H94) Zone
Zoning Proposed:	Site Specific Waterfront – Multiple Residential (WF1) Zone
Modifications Proposed:	<ul style="list-style-type: none"> • To permit a maximum building height of 147.0 metres (including mechanical penthouse); • To require additional family sized units within Pier 8 based on the approved building height (in accordance with the Minutes of Settlement); • To permit local commercial and institutional uses at grade; • To require a minimum landscaped open space of 20%; • To require a minimum landscape buffer of 1.5 metres along the north, west and south property lines; • To require a minimum unit width of 5.0 metres for live/work or multiple dwelling units at grade; • To require a minimum of 2.0 square metres of indoor amenity space and 2.0 square metres of outdoor amenity space for each dwelling unit; • To permit a maximum total gross constructed area of 38,200 square metres; and, • To require a 5.0 metre step back for any portion of the building abutting the east lot line that exceeds three storeys in height.

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 7 of 14

Documents	
Modifications Proposed Continued:	<ul style="list-style-type: none"> • To require a 1.5 metre setback from the north, west and south lot lines and a 7.5 metre setback from the east lot line; • To require a 12.5 metre step back above the third storey from the north and east lot lines, a 13.0 metre step back above the third storey from the west lot line, and a 1.8 metre step back above the third storey and a 6.0 metre step back above storey 31, from the south lot line; • To permit a maximum gross floor area of 850 square metres for floors four to 30 and 650 square metres for floors 31 and above; and, • To require that the development implement the preferred tower design option as determined through the special design process (Holding Provision).
Processing Details	
Received:	November 9, 2021.
Deemed Complete:	November 18, 2021.
Notice of Complete Application:	Mailed to 80 property owners within 120 metres of the subject property on December 1, 2021.
Public Notice Sign:	Sign posted: December 1, 2021. Sign updated: January 19, 2022.
Notice of Public Meeting:	Mailed to 80 property owners within 120 metres of the subject property on January 28, 2022 and posted in the Hamilton Spectator.
Public Comments:	At the time of preparation of this report, no public comments had been received.

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	Surface parking lot	Community Institutional (I2, 486, H94) Zone

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 8 of 14

Surrounding Land Uses:

North	Pumping station and linear park	Open Space (P4, 485) Zone
South	Vacant land	Conservation / Hazard Lands (P5) Zone
	Existing Land Use	Existing Zoning
East	Vacant land	Waterfront – Multiple Residential (WF1, H94) Zone
West	Discovery Centre Open Space	Open Space (P4, 485) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

As the purpose of this report and public meeting is to present the Applications and to allow for the public to provide feedback and input, and the next phase of the process will be for the applicant to prepare and submit alternative designs which will be further reviewed, it is not possible to do a detailed policy review of the proposal and how the design responds applicable policies and guidelines. A review of the applicable policy framework is as follows.

Provincial Policy Statement (2020)

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2020). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS 2020.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended)

The policies of the Growth Plan for the Greater Golden Horseshoe apply to any Planning decision in the City of Hamilton. Sections 2.2.1 (Managing Growth) and 2.2.6 (Housing), amongst others, apply to the proposal.

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SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031) (Ward 2) - Page 9 of 14

Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) was approved by Council on July 9, 2009 and the Ministry of Municipal Affairs on March 16, 2011.

There was no decision (Non-decision No. 113) made by the Ministry regarding the adoption of the West Harbour (Setting Sail) Secondary Plan into the UHOP because at the time the Ministry was reviewing the UHOP, the Secondary Plan was still under appeal. The lands are currently identified as “Lands Subject to Non-Decision 113 West Harbour Setting Sail” on Schedule E-1 of the UHOP, therefore the UHOP policies do not apply. As a result, when the UHOP came into effect on August 16, 2013, it did not affect the West Harbour (Setting Sail) Secondary Plan. Should the Applications be approved, staff would request that the proposed Official Plan Amendment be included in the Secondary Plan at the time when the Ministry deals with the non-decision.

Hamilton-Wentworth Official Plan and City of Hamilton Official Plan

The subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan that are applicable to the subject lands remain in effect. In this regard, the subject lands are within the Urban Area of the Hamilton-Wentworth Official Plan. The lands are designated “West Harbour” on Schedule A of the City of Hamilton Official Plan and the West Harbour (Setting Sail) Secondary Plan provides the detailed designations and policy framework for this area. City of Hamilton Official policies related to water distribution, sewage disposal, storm drainage and residential environment and housing remain in effect and are applicable to the proposal.

West Harbour (Setting Sail) Secondary Plan

The subject lands are currently designated “Institutional” in Setting Sail and are located within the Waterfront Area of Major Change. Areas of Major Change are locations within the Secondary Plan area that are planned for significant land use change. The existing “Institutional” designation permits uses such as museums, places of worship and social services, hospitals, nursing homes, schools, day cares and libraries and the existing maximum permitted building height for the site is four storeys.

The Applicant has proposed to re-designate the property to “High Density Residential” and establish a Special Policy Area to permit a maximum building height of 45 storeys and to create a policy framework to guide the form of the development in accordance with the Pier 8 Block 16 Urban Design Guidelines.

Therefore, the High Density Residential, Waterfront Area of Major Change and Urban Design policies of Setting Sail, amongst others, will apply.

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Pier 8 Block 16 Urban Design Guidelines (2021)

The Pier 8 Block 16 Urban Design Guidelines (2021) were adopted by Council on August 13, 2021 and implemented Phase 1 of the Block 16 planning process by providing a design framework for evaluating new development on the Block 16 lands. The Guidelines build upon and incorporate the key design considerations applicable to Block 16 from the earlier Pier 7 and 8 Urban Design Study (2016). The site-specific objectives and guiding principles from the Guidelines are as follows:

- Because of its strategic location, flanked on all four sides by public and publicly accessible open spaces, and within the James Street view corridor, Block 16 is a site of strategic importance within the overall Pier 8 development;
- In considering the potential for a residential or mixed-use development as an alternative use for Block 16, the public role of the site should continue to be recognized and therefore requires a high-quality development of exceptional design in order to achieve the landmark status that this site calls for;
- For both a mid-rise and tall-building scenario, future development of Block 16 has the potential to create a landmark and a visual anchor at Pier 8 that is emblematic of the Harbour's renewal;
- A mid-rise building in this location should strive to create a district level landmark while a tall-building should create a metropolitan level landmark development;
- New development should strive to capture the public imagination by achieving a unique high-quality building design that is exceptional;
- Given Block 16's location on the north side of the Greenway, the identity of new development should express environmentally sustainable features, green design references, and exceptional high-quality landscaping;
- New development should animate the surrounding pedestrian areas with unique active uses at grade and create a high-quality, accessible public realm;
- New multi-storey residential development should offer a high quality of life for residents of all ages including family-friendly unit design and generous outdoor living spaces contiguous with units; and,
- New development should provide appropriate transition and sufficient separation distances between development on the surrounding blocks and public spaces.

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The Guidelines provide design direction related to site organization, public realm interface, residential building design and sustainability. Section 8.0 of the Guidelines provides specific design direction should a tall building be proposed for the Block 16 lands. The design principles and directions from the Guidelines are summarized in a Pier 8 Block 16 Design Checklist (attached as Appendix “D” to Report PED22031) and the Applications will be evaluated against these principles and directions.

City of Hamilton Zoning By-law No. 05-200

The subject property is currently zoned Community Institutional (I2, 486, H94) Zone which permits community institutional uses and a maximum building height of 10.5 metres. Holding Provision 94 applies to the Pier 8 lands and requires a Record of Site Condition, an acoustical, odour and dust report, and that a sanitary pumping station and forcemain be constructed prior to development proceeding.

The Applicant has proposed to rezone the property to a site-specific Waterfront – Multiple Residential (WF1) Zone to permit a multiple dwelling with a maximum building height of 45 storeys (147 metres). The proposed Zoning By-law Amendment includes modifications to permit institutional and local commercial uses at grade and a regulation to require additional dwelling units having two or more bedrooms based on the approved building height. In addition, a Holding Provision is included to require the development to implement the preferred tower design option as determined through the special design process and the existing Holding Provision 94 would remain until the proponent satisfied the required conditions.

RELEVANT CONSULTATION

Planning staff have circulated the Applications to internal Departments and external Agencies that have an interest in the proposed development. Comments obtained through the circulation will be addressed and will form part of the recommendation report to Planning Committee on the proposed Official Plan Amendment and Zoning By-law Amendment which is targeted for September 2022.

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 80 property owners within 120 m of the subject property on December 1, 2021. A Public Notice sign was posted on the property on December 1, 2021 and updated with the public meeting date on January 19, 2022. Finally, Notice of the Public Meeting was mailed to 80 property owners within 120 m of the subject lands on January 28, 2022 and posted in the Hamilton Spectator.

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To date, no public comments have been received. Public comments received will be incorporated and addressed in the recommendation report to Planning Committee on the proposed Official Plan Amendment and Zoning By-law Amendment which is targeted for September 2022.

Public Consultation Strategy

Following submission of the Official Plan Amendment and Zoning By-law Amendment applications, the City of Hamilton, Municipal Land Development Office has completed the following additional public outreach:

- November 30, 2021 – Communications Update regarding the proposed Official Plan Amendment and Zoning By-law Amendment Applications was posted on the City’s Government Information Page;
- December 1, 2021 – Update to the City’s Waterfront Redevelopment – West Harbour webpage to provide information about the proposed Applications, including posting Application materials (plans, studies and reports); and,
- December 1, 2021 – Email update to the West Harbour mailing list subscribers advising them of the Applications and directing them to the City’s website for more information.

A Public Information Centre (PIC) is being planned for late March 2022 or early April 2022.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. Staff will provide a further recommendation report to Planning Committee (targeted for September 2022) following completion of the technical review and receipt of public and agency comments. This Report will include a review of applicable policies and guidelines and a summary and response to relevant consultation completed through the Application circulation and implementation process. Comments received at the Statutory Public Meeting will be considered and incorporated into the recommendation report on the proposed Official Plan and Zoning By-law Amendment Applications.

2. Next Steps

The recommended special design process included in the Council adopted Implementation Process for a Tall Building Proposal (see Appendix “B” attached to Report PED22031) will assist staff in evaluating the proposed Applications and will

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require the applicant to follow the steps outlined below (with targeted dates for completion):

Step	Description	Target Date for Completion
Development of Design Options	The Applicant will engage multiple design professionals to develop three tower designs that address innovation in three areas: sustainability, quality of life and design excellence.	February 2022
Public Information Centre (PIC)	A Public Information Centre (PIC) will be held to present the three tower designs and collect feedback from the public.	March 2022
Special Design Review Panel	A special Design Review Panel will review the feedback received at the PIC and provide comments and feedback on the three tower design options to staff.	March 2022
Step	Description	Target Date for Completion
OPA / Zoning By-law Amendment Decision	Staff will bring forward a recommendation report to Planning Committee on the OPA / Zoning By-law Amendment and preferred tower design option.	September 2022

ALTERNATIVES FOR CONSIDERATION

Should Council choose not to approve proceeding with the Implementation Process for a Tall Building Proposal, including the special design process, staff would bring forward a staff report to a future planning committee based on the materials submitted.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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.

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16), Hamilton (PED22031) (Ward 2) - Page 14 of 14**

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Location Map

Appendix "B" - Implementation Process

Appendix "C" - Concept Plan

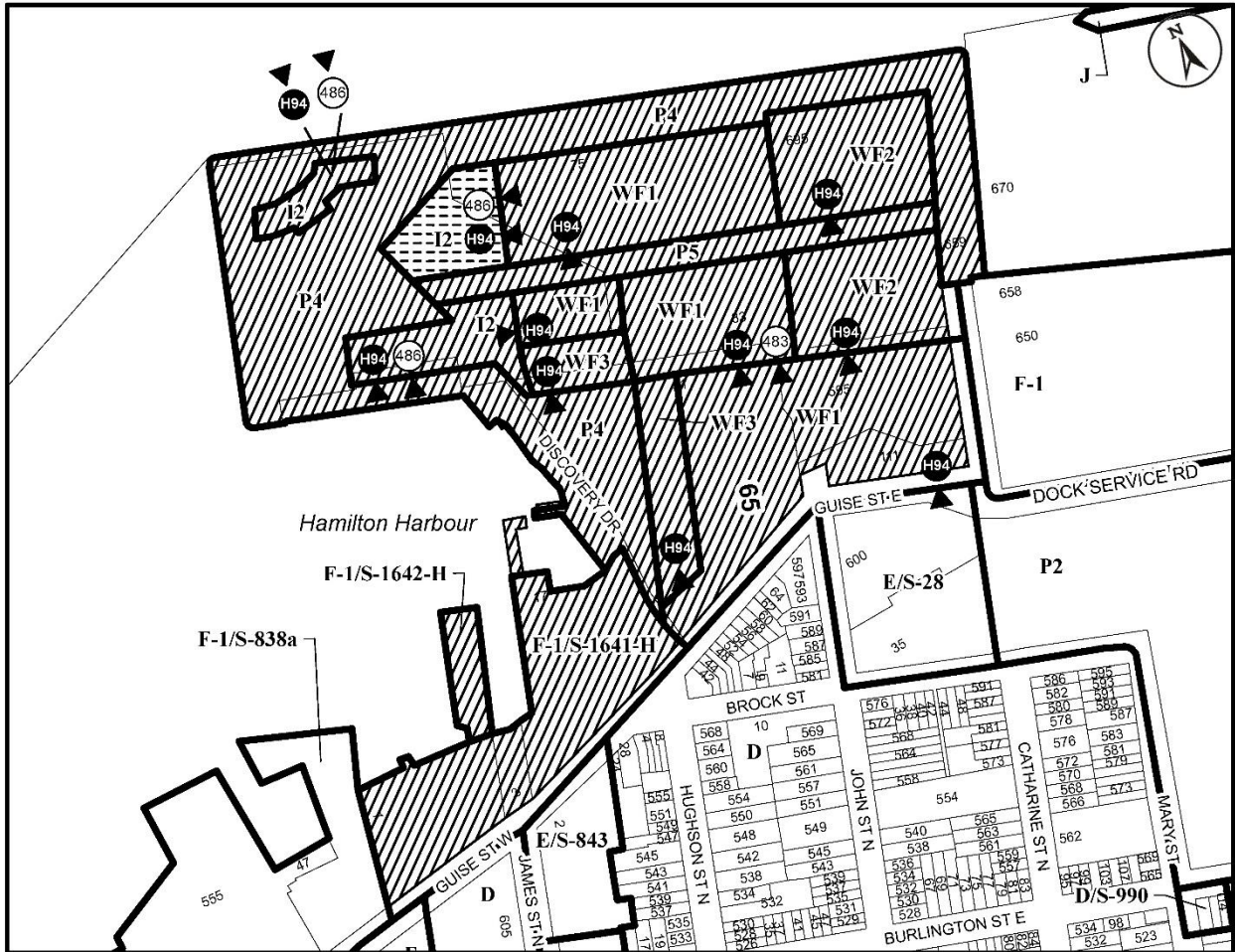
Appendix "D" - Pier 8 Block 16 Design Checklist

MK:sd

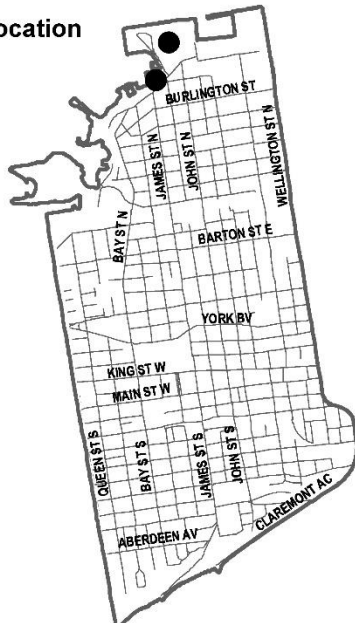
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● Site Location



Key Map - Ward 2

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAC-22-003/UHOPA-22-001

Date:
November 23, 2021

Appendix "A"

Scale:
N.T.S

Planner/Technician:
MK/NB

Subject Property

65 Guise Street East, Hamilton (Ward 2)



Pier 8 - Block 16



Additional lands owned by owner



**Appendix “B” to Report PED22031
Page 1 of 2**

IMPLEMENTATION PROCESS FOR A TALL BUILDING PROPOSAL – PIER 8 BLOCK 16

	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7	STEP 8	STEP 9	STEP 10	STEP 11
	PIER 8 BLOCK 16 UDG DECISION	OPA/ZBA APPLICATION (120 days to <u>make a decision</u>)	STATUTORY PUBLIC MEETING ON OPA/ZBA	DEVELOPMENT OF DESIGN OPTIONS (Applicant)	PUBLIC INFORMATION CENTRE	SPECIAL DESIGN REVIEW PANEL	OPA/ZBA DECISION	SITE PLAN APPLICATION	CONDITIONAL SITE PLAN APPROVAL, HOLDING REMOVAL APPLICATION AND DRAFT PLAN OF SUBDIVISION CONDITIONS	FINAL SITE PLAN APPROVAL	IMPLEMENTATION (Transfer of Lands, Building Permit and Condominium Approvals)
Target Date for Completion	August 10, 2021 – PC August 15 - Council	October 2021	November 2021 – report deadline January/Feb 2022 – PC	Feb 2022	March 2022	March 2022	June 2022 – Report deadline September 2022 – PC	Timing for Site Plan application submission dependent on applicant’s phasing plan for Pier 8.			
DESCRIPTION	Present Pier 8 Block 16 Urban Design Guidelines to Council for approval.	Submission of the OPA/ZBA based on the design direction of the guidelines. Includes full scope of studies (urban design brief, sustainability report, sun/shadow, wind, noise studies, FSR, etc.)	Hold the statutory public meeting to present the proposed application and receive public input on the OPA/ZBA. Report Recommendation: that the applicant be directed to participate in a special design process to develop three tower designs. Each design should address innovation in following three areas: sustainability, quality of life and design excellence.	Applicant to engage in multiple design professionals to develop three tower designs that address innovation in three areas: sustainability, quality of life and design excellence.	Public Information Centre to present the three tower designs. The applicant will explain how each design is an example of innovation in sustainability, quality of life and design excellence. A special design review panel will also attend this meeting to understand feedback from the public on the three tower design options.	A special design review panel will review the feedback received at the PIC on the three tower design options presented to provide comments and feedback on the three options to staff.	Recommendation Report to Planning Committee on OPA/ZBA and preferred tower design option. The proposed ZBA will include a Holding provision that states that the proponent shall implement, through site plan approval, the preferred tower design option.	Site Plan application that implements the OPA/ZBA and detailed aspects of the preferred design option.	Once it has been determined that the preferred design option has been implemented through the Site Plan application process, an application can be made to remove the Holding Provision on the Zoning. The Holding Provision will be included as a special condition of conditional site plan approval. The condition of draft plan of subdivision related to the Urban Design Brief being compliant will be updated to reflect the Pier 8 Block 16 Urban Design Guidelines.	Final Site Plan approval can be granted. Special conditions should include review of the final design and site plan by a Control Architect and Sustainability Consultant (independent of the Design Architect and Engineers) to review the matters of Urban Design and Sustainability.	Control Architect Review for conformity with Design Guidelines
DECISION	Adopt; or Receive; or Deny	Notice of Complete application.	No decision at this meeting on the OPA/ZBA. Approve or deny the proposed special design process.	N/A	N/A	N/A	Approval or denial of OPA/ZBA If the UDG were received in Step 1 then Council could adopt here if approving the OPA/ZBA.	Site Plan application deemed complete.	Approve or Deny Holding removal By-law.	Prior to final site plan approval, staff will consult with Council and incorporate Council’s advice in <u>making a decision</u> on the application.	Transfer of lands/ Issuance of building permit/Condominium approvals.
APPROVAL AUTHORITY	Council	Planning Staff	Council	N/A	N/A	N/A	Council	Planning Staff	Council – Holding Staff – Subdivision and Site Plan Condition	Chief Planner and Director of Planning.	<ul style="list-style-type: none"> City Manager’s Office/Real Estate Department Chief Building Official Planning Staff

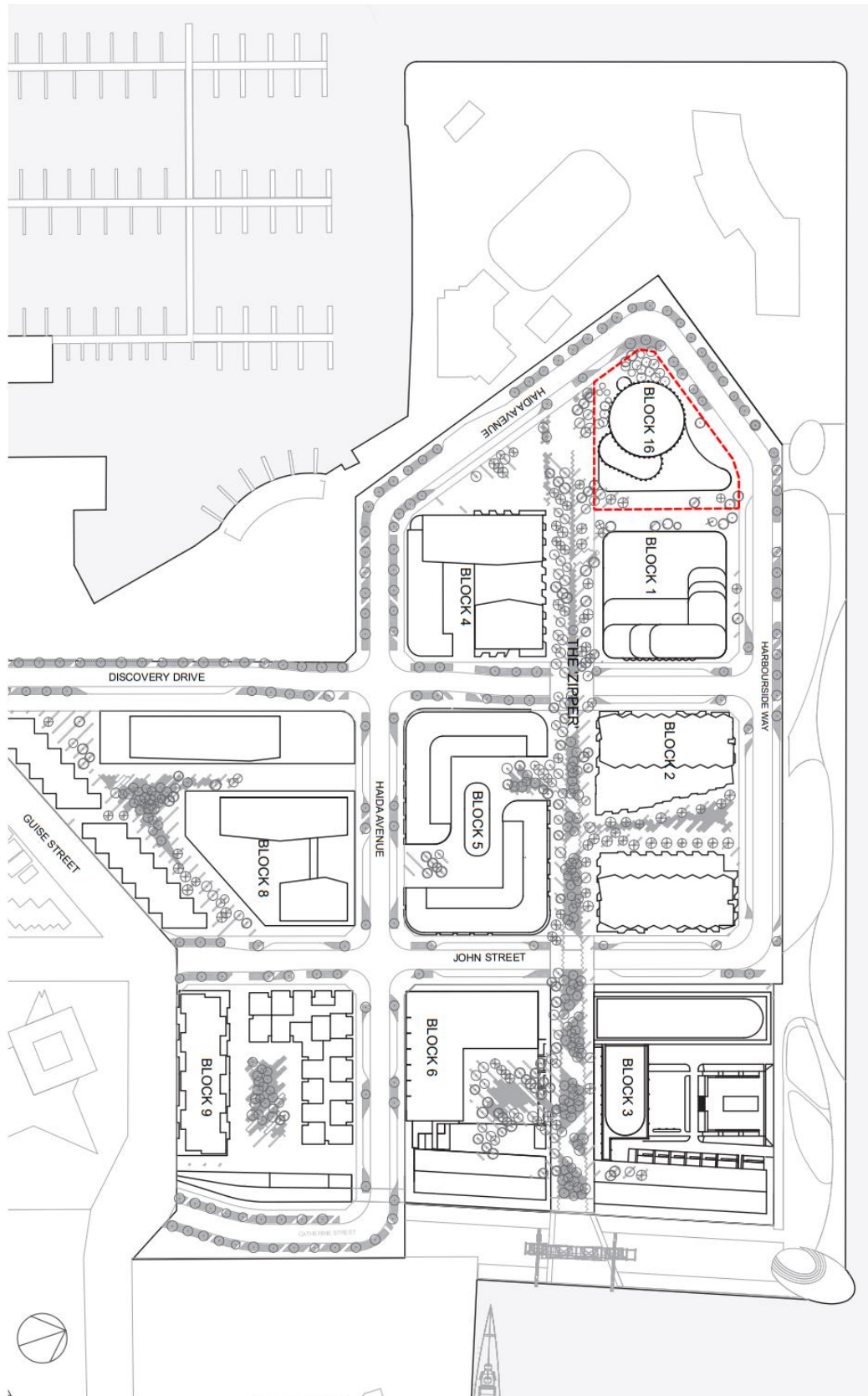
Appendix “B” to Report PED22031

IMPLEMENTATION PROCESS FOR A TALL BUILDING PROPOSAL – PIER 8 BLOCK 16

<p>OUTCOME or ACTION</p>	<p>Approve Guidelines (proceed to Step 2); or</p> <p>Approve guidelines but hold in abeyance until decision on OPA/ZBA (Step 7); or</p> <p>Deny</p>	<p>Notice of Complete Application and Circulation of application.</p>	<p>At the statutory meeting Council and the public to provide feedback and comments on the proposed OPA/ZBA.</p> <p>Council could approve or deny recommendation to proceed with a special design process.</p>	<p>Three tower designs to be presented to the public and a special design review panel for comment.</p>	<p>Feedback received will be considered by the applicant in the development of the final preferred tower design option.</p>	<p>Applicant to review comments from public and the special design review panel and prepare one final design option that will proceed with the OPA/ZBA application.</p> <p>Chief planner to review the final design option and prepare a recommendation report on the preferred option and OPA/ZBA for Council’s consideration.</p>	<p>Approve OPA/ZBA (If approved, proceed to Site Plan application)</p> <p>Or</p> <p>Deny OPA/ZBA</p>	<p>Prior to receiving final site plan approval, the Holding Provision must be lifted.</p>	<p>If the Holding Provision has been removed, proceed to Site Plan approval.</p>	<p>Approved site plan based on preferred design option, UDG and OPA/ZBA.</p> <p>Proceed to Building Permit.</p>	<p>Proceed to construction phase.</p>
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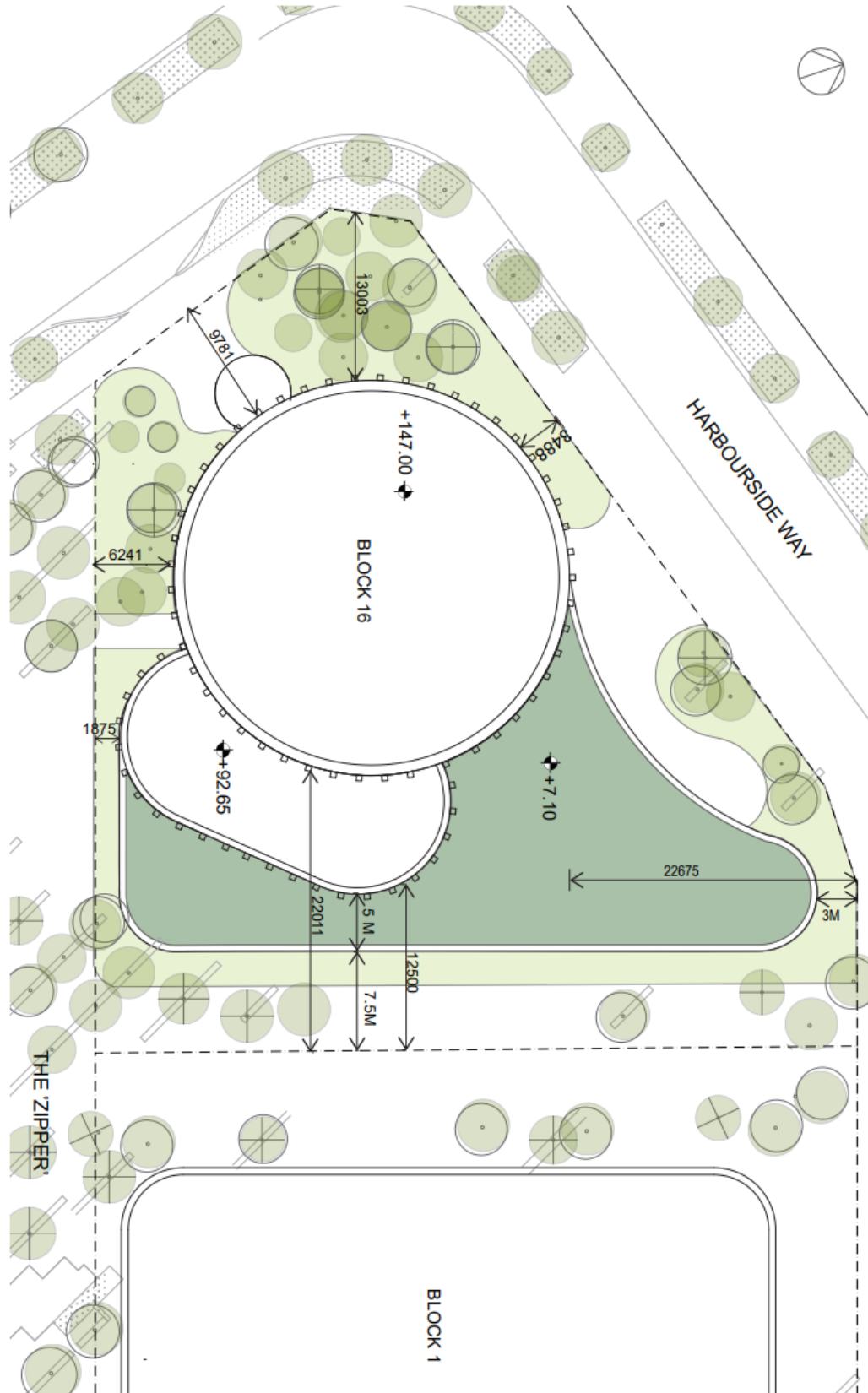
PIER 8 SITE PLAN
PIER 8 OCTOBER 27, 2021

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Page 2 of 4

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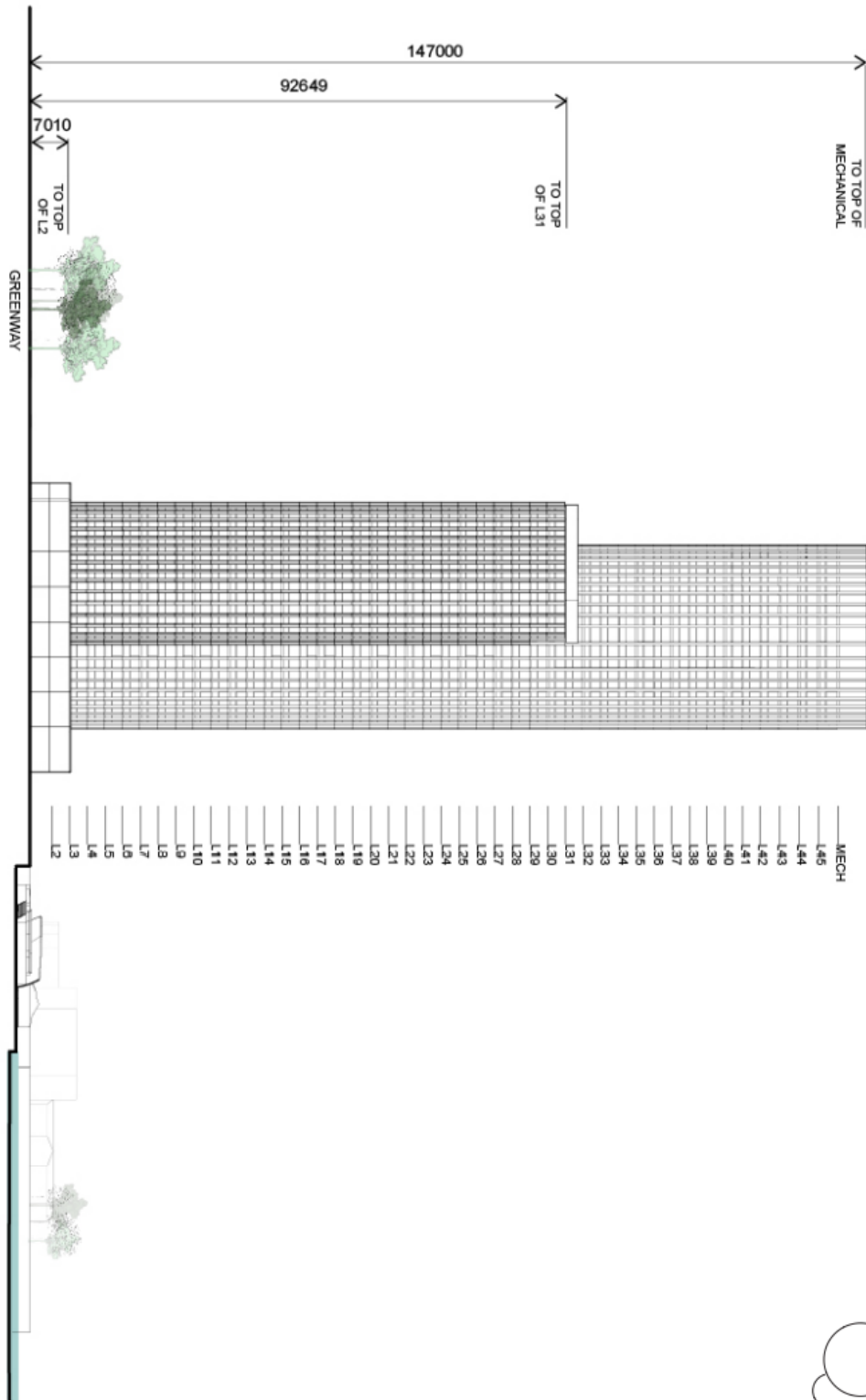
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ROOF PLAN
PIER 8 OCTOBER 27, 2021



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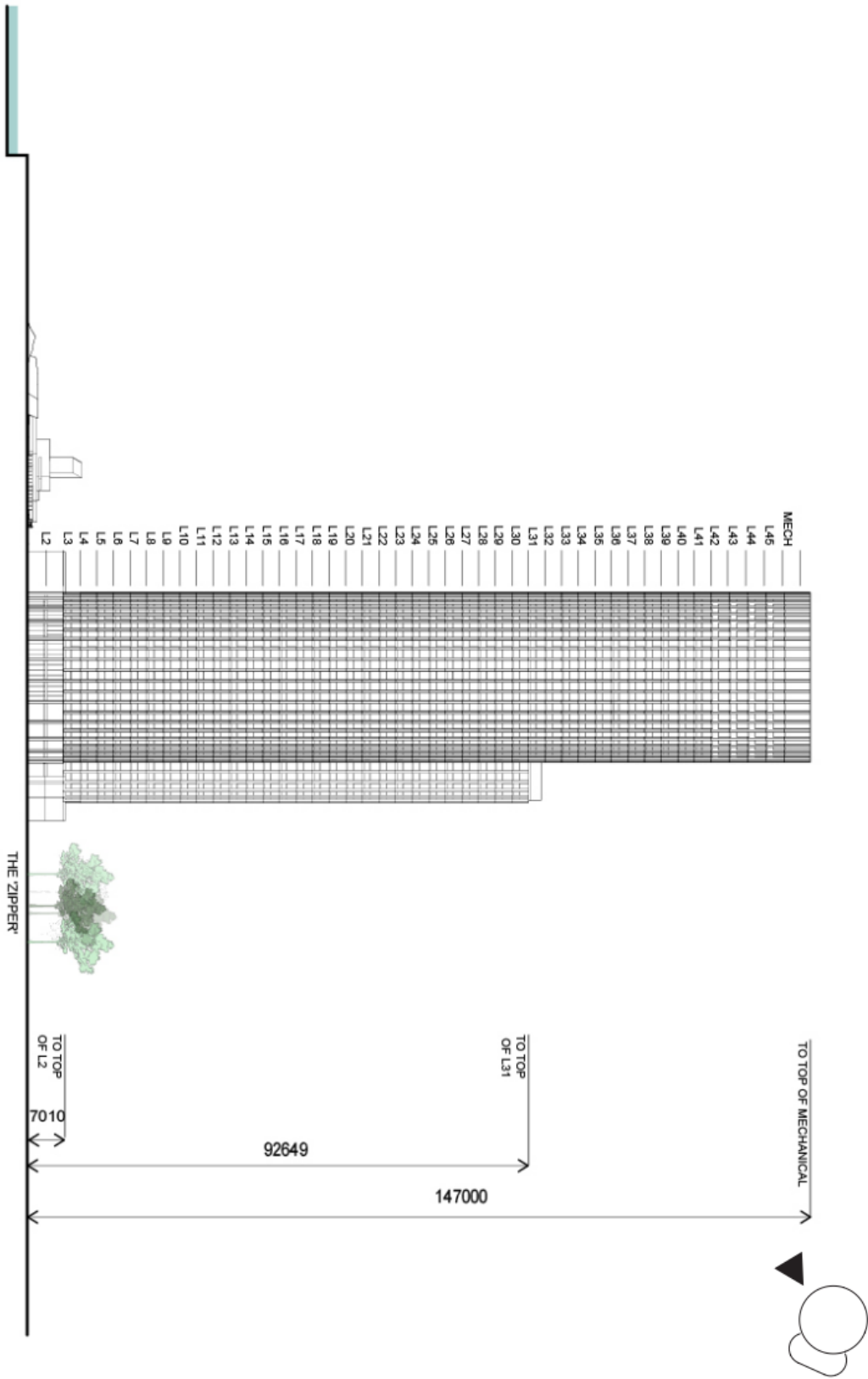
EAST ELEVATION
PIER 8 OCTOBER 27, 2021



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KPMB

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WEST ELEVATION
PIER 8 OCTOBER 27, 2021

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PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
PIER 7 + 8 URBAN DESIGN VISION						
1.3 VISION AND GUIDING PRINCIPLES						
<p>The Urban Design Study Vision Statement states:</p> <p>“Pier 8 will become a vibrant urban waterfront neighbourhood to be enjoyed by all residents of the City. The vitality of Hamilton’s urban waterfront will be supported by a mix of residential, commercial, community and cultural uses.”</p> <p>The Urban Design Study also established key development concepts that influence the potential character of future development on Block 16. These include:</p> <ul style="list-style-type: none"> • “A new Green Street (The Greenway) that connects from east to west. This open space is framed by new residences and has activity anchors at the east and west boundaries of the open space...” • A mix of building heights and massing to provide a varied and interesting architectural character.” <p>Additional Considerations inform how development on Block 16 should be addressed. These considerations building upon the vision established in the Urban Design Study and are supplemented by the following site-specific objectives and guiding principles:</p> <ul style="list-style-type: none"> • “Because of its strategic location, flanked on all four sides by public and publicly accessible open spaces, and within the James Street view corridor, Block 16 has always been considered a site of strategic importance within the overall Pier 8 development. • Recognizing this high visibility, prominence and strategic role, the Urban Design Study designated Block 16 as a potential institutional site appropriate for a public facility. • In considering the potential for a residential or mixed-use development as an alternative use for Block 16, the public role of the site should continue to be 						

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PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
<p>recognized and therefore requires a high-quality development of exceptional design in order to achieve the landmark status that this site calls for.</p> <ul style="list-style-type: none"> • For both a mid-rise and tall-building scenario, future development of Block 16 has the potential to create a landmark and a visual anchor at Pier 8 that is emblematic of the Harbour’s renewal. • A mid-rise building in this location should strive to create a district level landmark given its strategic location and visibility as a feature centred on the James Street view corridor and as the block that serves as the western gateway to both the Greenway and the Waterfront Promenade. • A tall-building in this location, when designed to standards of exceptional quality and design excellence, has the opportunity to create a metropolitan/regional landmark emblematic of the renewal of Hamilton Harbour. At the ground plane it can act as the gateway to the Greenway and Waterfront Promenade. The higher portions of the tower will be highly visible from the downtown, centred on the James Street Corridor. A tower will also be clearly visible as a landmark visible from the McQueston High Level Bridge and the James N. Allan Skyway. • New development should strive to capture the public imagination by achieving a unique high-quality building design that is exceptional. • Given Block 16’s location on the north side of the Greenway, the identity of new development should express environmentally sustainable features, green design references, and exceptional high-quality landscaping. • New development should animate the surrounding pedestrian areas with unique active uses at-grade and create a high-quality, accessible public realm. • New multi-storey residential development should offer a high quality of life for residents of all ages including family-friendly units design and generous outdoor living spaces contiguous with units. 						

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PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
<ul style="list-style-type: none"> New development should provide appropriate transition and sufficient separation distances between development on the surrounding blocks and public space. “ 						
PIER 8 BLOCK 16 URBAN DESIGN GUIDELINES						
2.0 CONTEXTUAL CONSIDERATIONS						
2.1 Fit and Transition in Scale						
2.1.1 Apply minimum horizontal separation distances and other building envelope controls (including setbacks and setbacks) to transition from new development to lower-scale buildings.						
2.2 Sunlight and Sky View						
2.2.1 Shadows from new development should allow for a minimum of 3.0 hours of sun coverage between 9:00a.m. and 6:00p.m. as measured from March 21 st to September 21 st for any spot on public sidewalks opposite the Block 16 development.						
2.2.2 Shadows from new development should allow for a minimum of 50% sun coverage at all times of the day as measured from March 21 st to September 21 st on the waterfront promenade.						
2.3 Prominent Sites and Views						
2.3.1 The following viewpoints towards Pier 8 Block 16 should be considered: <ul style="list-style-type: none"> a. Mid-span on the Burlington Bay James N.Allan Skyway; b. Mid-span on the McQuesten High Level Bridge; and c. James Street North at King Street. 						
3.0 SITE ORGANIZATION						
3.1 Building Entrances						

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PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
3.1.1 Primary building entrances should be accessible and front onto public streets and pedestrian paths.						
3.1.2 Primary entrance(s) should be prominent and distinguished through articulation and façade variations.						
3.1.3 Entrances should be highly glazed to provide enhanced visibility, surveillance, interest, and activity.						
3.1.4 Primary building entrances should be weather protected by incorporating measures such as canopies, awnings, or overhangs.						
3.1.5 The location of the main building entrance to the lobby and at-grade entrance to individual units should consider wind impacts and provide mitigating measures to ensure pedestrian comfort and safety.						
3.2 Site Access, Servicing and Parking						
3.2.1 Consider shared site servicing and parking infrastructure for Block 16 and Block 1, with parking access located at the east side of Block 1 if a shared or consolidated access is provided.						
3.2.2 Minimize the extent of site area dedicated to site servicing and parking access through the use of shared infrastructure, efficient layouts, and reduced curb cuts.						
3.2.3 Recess, screen, and minimize the dimension of garage doors and service openings visible from public streets and open spaces. Apply high-quality finishes and design.						

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PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
3.2.4 Parking should be located below grade. Surface parking should be limited to short-term drop-off and delivery spaces.						
3.3 Private Open Spaces						
3.3.1 A minimum of 20% of the site area should be landscaped at-grade. Landscaped areas at-grade will include elements such as hard and soft exterior paved areas, water features, public art installations, etc.						
3.3.2 Where appropriate, private open spaces should be visually integrated with the Greenway south of Block 16.						
3.3.3 All at-grade units should have a front door facing the exterior with a landscaped front yard between a minimum of 2.5 metres to 4.0 metres in depth. Landscaping, minor changes in elevation, short fences, and front steps may be included within the front yard setback.						
3.3.4 At-grade units should, where possible, be elevated approximately 0.6 metres above the flanking public sidewalk, if an accessible path can also be provided, to allow for appropriate public-private transition.						
3.3.5 At-grade enclosed balconies should not be permitted.						
3.4 Above Grade Balconies						
3.4.1 All units shall have access to private outdoor space contiguous with, and accessible from, the residential unit in the form of a balcony or a terrace.						

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PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
3.4.2 Private residential balconies on all sides and especially the south side should reference the Greenway through design themes and balcony infrastructure that supports outdoor planting.						
3.4.3 Balconies should be designed to be large enough to accommodate a range of activities and hold basic furnishings while maximizing sunlight access. They should also be safe and generally free from uncomfortable wind conditions.						
3.4.4 The size of balconies may vary depending on location, orientation, and architectural design but should strive to create depths in some locations that support a wide range of outdoor functions such as outdoor dining.						
3.4.5 The area of the balcony shall be free of any mechanical equipment, permitting full outdoor use as an extension of the indoor unit.						
3.4.6 Balconies should be integrated into the building design composition and may include a combination of projecting and recessed balconies.						
3.4.7 20% of the area of a terrace or balcony and 20% of its exterior width can be occupied by micro-sunrooms. These are small glass enclosures integrated within the terrace or balcony to serve as a sunroom or a small greenhouse providing opportunities for year round use of terraces and the integration of urban agriculture and visible plantings. These glass enclosures provide a means to articulate the façade of the building and extend the Greenway theme into its architectural expression. The area of the micro sunrooms will be exempt from the permitted GFA of the building but will be considered as contributing to the 2.0 square metre exterior amenity area required to every unit.						
3.5 Public to Private Realm Interface						

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3.5.1 Ensure an appropriate level of visual and physical access and overlook at-grade.						
3.5.2 Promote sufficient glazing and landscape design to promote natural surveillance and views towards public and private areas.						
3.5.3 Provide direct, universal access from the public sidewalk for all public entrances to commercial uses and shared lobbies.						
3.5.4 Provide high-quality landscaped setbacks, between 2.5 metres and 4.0 metres, for private entrances to ground floor residential units. Landscaping, minor changes in elevation, short fences, and front steps may also be included within setbacks.						
3.5.5 At-grade units should, where possible, be elevated approximately 0.6 metres above the flanking public sidewalk, if an accessible path can also be provided, to allow for appropriate public-private transition.						
3.5.6 Provide Live/Work or townhouse development along the east property line, with at-grade entrances, to promote grade related activity.						
3.5.7 Place common areas with active uses within the first 4-storeys of buildings.						
3.5.8 Encourage green elements, such as trees, green walls, water features, and other visually engaging elements within and surrounding new development.						
3.6 Expressing the Building Base						
3.6.1 Feature views into common areas such as the lobby, gym and common rooms and integrate ‘green’ elements, such as trees, green walls, public art, and water features, inside and surrounding the building.						

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3.6.2 Integrate the creative use of featured lighting to enliven the site and base building.						
4.0 PUBLIC REALM INTERFACE						
4.1 Streetscape and Landscape Design						
4.1.1 Organize streetscape and landscape elements to support a comfortable, vibrant, and safe public realm through the use of consistent design elements, materials, and landscaping.						
4.1.2 Provide a minimum landscaped buffer of 1.5 metres on the north, west and south side of the site.						
4.1.3 Provide decorative pedestrian oriented lighting.						
4.2 At-Grade Units						
4.2.1 Place Live/Work or townhouse units and other grade related units with an appropriate landscape setbacks and amenities to animate adjacent streets and open spaces.						
4.2.2 All grade related units should be setback to allow for a landscaped front yard and an appropriate public-private transition.						
4.2.3 Live/Work or townhouse units should have a minimum front yard depth of 2.5-4.0 metres.						

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4.3 Mid-Block Pedestrian Connection (Pedestrian Mews)						
4.3.1 Provide a new Pedestrian Mews along the east edge of Block 16 and west edge of Block 1.						
4.3.2 Public access will be provided through the Mews.						
4.3.3 The width of the Mews measured from building face to building face between buildings on Block 16 and 1, should be 12.0 metres for a mid-rise building and 15.0 metres for a tall-building.						
4.3.4 Three-storey at-grade Live/Work or townhouse units with front doors facing the Mews should flank the west (Block 16) and east (Block 1) sides of the Mews. To create adequate transition between private at-grade units and the public walkway within the Mews, a landscaped front yard zone should be provided within the Mews area in front of all at-grade units. This front yard area may include steps, landscaping, and other elements to provide suitable transition.						
4.3.5 Live/Work or Townhouse units located adjacent to the Pedestrian Mews should have a minimum frontage width of 5.0 metres per unit.						
4.3.6 The end units should be designed with a corner condition with architectural treatments and windows that address both frontages.						
4.3.7 For a mid-rise building on Block 16 the entirety of the 12.0 metres Mews may be located on the east side of Block 16. A tree-lined public, pedestrian walkway of at least 3.0 metres in width should be centred within the Mews. With a seating, landscaping and tree planting zone of approximately 2.0 metres on either side and 2.5 metres depth landscaped front yards flanking grade-related Live/Work or Townhouse units on either side.						

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4.3.8 For a tall building, the 15.0 metres aggregate width of the Mews is proposed to be evenly split, with 7.5 metres located on the east side of Block 16 and 7.5 metres provided on the west side of Block 1. A tree-lined public, pedestrian walkway of at least 3.0 metres in width should be centred within the Mews, with a seating, landscaping and tree planting zone of approximately 2.0 metres on either side and 4.0 metres depth landscaped front yards flanking grade-related Live/Work or Townhouse units on either side.						
4.3.9 Provide high-quality, well designed streetscape elements including granite unit pavers, benches, bike racks, pedestrian scale light standards or light bollards, to promote a comfortable pedestrian experience and safety.						
4.4 Public Art						
4.4.1 Ensure adequate building setbacks and space surrounding public art to allow for visual accessibility.						
4.4.2 Public art may be integrated into architectural designs or placed within the public realm.						
5.0 RESIDENTIAL BUILDING DESIGN						
5.1 Lobby						
5.1.1 Residential lobbies should be visually and physically connected to adjacent open spaces, outdoor amenity areas, and public sidewalks.						
5.1.2 Residential lobbies should be located on a ground floor with a minimum floor to floor height of 6.0 metres and should be generously glazed to provide interior and exterior views and natural observation.						

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5.1.3 Residential lobbies should be designed to encourage socialization and interaction.						
5.1.4 Residential lobbies should be flexible in their design to accommodate a range of activities.						
5.1.5 Residential lobbies should provide designated areas to accommodate locker storage areas for parcel and food deliveries, waiting areas, communal lounge areas and recreational/activity spaces.						
5.2 Amenity Spaces						
5.2.1 New development should provide a minimum of 2.0 square metres of indoor and 2.0 square metres of outdoor amenity space per unit.						
5.2.2 Common indoor and outdoor amenity spaces should be located adjacent to each other where feasible either at-grade or where indoor amenity spaces are adjacent to a large outdoor roof terrace.						
5.2.3 Indoor and outdoor amenity areas should have provisions for child and youth areas and activities, as well for a range of ages.						
5.2.4 Common outdoor amenity spaces should be located where they will have optimal sunlight access and mitigation from wind.						
5.2.5 The design of common areas should imaginatively address the needs of people of all ages and abilities.						
5.2.6 A common area for pet-friendly amenities should be provided.						

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5.3 Family Sized Units						
5.3.1 A minimum of 10% of units should be three-bedroom units.						
5.3.2 Three-bedroom units should be located on the first 6-storeys as much as possible to maintain a closer relationship with ground level activities or within proximity to indoor and outdoor amenity areas.						
5.3.3 For both the mid-rise and tall building scenarios, larger floor plate sizes have been recommended in these guidelines for the lower levels of the buildings to provide sufficient dimensions for larger family-sized units.						
5.3.4 Three-bedroom units should be placed in proximity to indoor and outdoor amenity areas where feasible.						
5.3.5 Provide a varied mix of three-bedroom units in the form of grade-related units and townhouse/loft units.						
6.0 SUSTAINABILITY						
6.1 Green Building - Energy						
6.1.1 Energy Star certification shall be achieved for any new buildings on Block 16 including provision of Energy Star Certified appliances.						
6.1.2 Complete Energy Modeling, Mechanical Commissioning and Air Tightness testing to the Energy Star certification standard is required.						

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6.1.3 Include high performance façade design that may include elements such as solar shading, lower glazing to wall ratio, triple glazing and renewable materials.						
6.1.4 Consideration should be given to preparing for future District Energy connections by: <ul style="list-style-type: none"> • Providing space for future equipment and thermal piping; • Securing an easement between the mechanical rooms and the property line for future thermal piping; and, • Including two-way pipes within the building to carry thermal energy from the district energy network to the section in the building where the future energy transfer station will be located. 						
6.1.5 Complete a Lifecycle Carbon Assessment (LCA) that is third party verified and identify opportunities to reduce carbon emissions through building material selection.						
6.1.6 Cool Roof design and material should be considered to reflect UV rays and self-cool by efficiently emitting radiation away from the building.						
6.1.7 Building roofs should include a minimum of 50% coverage for green roofs. Alternative configurations may include a minimum of 50% roof coverage for solar capture equipment, cool roofing materials or a combination thereof.						
6.2 Air Quality and Thermal Performance						
6.2.1 Design the building’s Heating, Ventilation and Air Conditioning (HVAC) system to support enhanced air quality and thermal performance.						
6.2.2 Design Building HVAC system to be mold resistant.						

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6.2.3 Include enhanced filtration systems to filter out particulate matter that may enter through operable windows.						
6.2.4 Select building materials that reduce VOC emissions to contribute to healthy air within the building. Applicable materials include flooring, common amenity space furniture, sealants, paints and insulation.						
6.3 Resiliency and Health						
6.3.1 Implement design strategies to reduce viral transmission by reducing common touch points within shared spaces, including entryways, the lobby, elevators and amenity areas.						
6.3.2 In an effort to reduce contact with respiratory droplets natural ventilation should be provided throughout all building areas to enhance fresh air flow.						
6.3.3 The building should be design with access to back up generators that can supply energy to the entire building for a period of up to 48 hours.						
6.3.4 The building should be designed to provide residents with a back-up drinking water supply for a period of up to 48 hours.						
6.3.5 The building should be designed to ensure ease of communication of updates during states of emergency.						
6.3.6 The building should be designed to ensure equal access to high speed internet, including the provision of wi-fi in amenity areas.						

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6.4 Light						
6.4.1 Amenity spacey, lobby areas and a minimum of 50% of a dwelling unit shall have access to natural light.						
6.4.2 LED lighting should be provided to reduce energy requirements.						
6.5 Microclimate (Pedestrian Weather Protection and Wind Effects)						
6.5.1 Building design and landscape design should mitigate adverse wind impacts on at-grade and elevated areas used by the public or building occupants.						
6.5.2 Ensure building design and mitigation measures allow for the appropriate wind comfort criteria desired for an area.						
6.5.3 Provide sufficient mitigation measures where wind comfort criteria is exceeded.						
6.5.4 Provide permanent pedestrian weather protection, including overhangs and canopies, at building entrances and along at-grade frontages and pedestrian sidewalks.						
6.6 Water						
6.6.1 The building design should be compliant with City and Provincial standards and guidelines for Low Impact Development Measures.						
6.6.2 Water filtration systems should be designed to enhanced standards.						
6.6.3 The building should be designed with appropriate ventilation systems to remove humidity from bathrooms.						

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6.6.4 Provision of water efficient fixtures that meet Energy Star standards shall occur to reduce indoor water use.						
6.6.5 Domestic water heating fixtures that meet Energy Star standards should be provided.						
6.6.6 Greywater recycling should be used as a source for irrigation of the site landscaping.						
6.7 Waste						
6.7.1 Buildings shall be designed with appropriate waste sorting facilities to ensure recycling and organic waste collection programs are supported.						
6.8 Landscaping						
6.8.1 Plant 100% native plants. Preference should be given to drought resistant planting strategies. Invasive species shall be avoided.						
6.8.2 Utilize bioswale, rain gardens and permeable paving materials within landscaping.						
6.8.3 Greywater irrigation systems should be used.						
6.8.4 Soil volumes for tree plantings should be increased at least 5% above minimum standards.						
6.8.5 Green roofs should be used on roof surfaces that are not used as active terraces and also as landscape features within active terraces.						

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DESIGN PRINCIPLES & DIRECTIONS						
6.9 Green Infrastructure						
6.9.1 Provision of Electric Vehicle (EV) infrastructure for 10% of residential parking spaces.						
6.9.2 The remaining vehicle parking spaces must be designed EV capable (i.e. a complete electrical circuit terminating in an electrical outlet for the purpose of future installation of EV charging).						
6.9.3 Provision of well-designed bicycle parking facilities to meet the needs of cyclists and support bicycle use. Short-term parking (visitors or less than two hours parking), long-term parking (residents parking) and overnight visitor bicycle parking facilities should be provided within the below-grade parking structure.						
6.9.4 Short-term outdoor bike parking: a. Located close to building entrances (no more than 20 metres) to make it easily accessible; b. Within the view of residents, building security, or in an area close to street or public amenities and; c. The design of bike parking racks or other systems should be attractive and integrated into the site design, public art opportunities, street furniture, and other amenities on site.						
6.9.5 Short-term and long-term indoor bike parking: a. Located in the ground level or in the first level of underground parking garage to make an easy access from the ground level and minimize the interactions between bicycles and automobiles in the garage; b. The underground bike parking room should be easily accessible by elevator or ramp. A dedicated two-way bicycle ramp (3.0m wide at 6-7% slope) is preferred;						

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c. The ground level bike room should be located away from the main entrance but side of the building facing the mid-block connection; d. Ensure regular security surveillance to improve safety and prevent vandalism and misuse; and, e. Provision of electrical outlets for electric bikes and scooters.						
6.10 Bird Friendly Design						
6.10.1 Design new development with bird friendly best practices including sunshades or louvers, visual markers within glazed surfaces, and non-reflective glazing to reduce window collisions with birds.						
6.10.2 Exterior lighting fixtures should be programmable to allow for dimming during migratory seasons.						
6.10.3 Ensure the design of buildings complies with Bird Friendly Design Guidelines in accordance with the Canadian Standard Associations CSA A460 Bird Friendly building design.						
6.11 Setting Sail Secondary Plan (Sustainability Extract)						
6.11.1 The design and construction of new development and redevelopment shall incorporate best practices and appropriate building technology to minimize energy consumption, conserve water, reduce waste and improve air quality.						
6.11.2 New development and redevelopment shall be encouraged to incorporate rooftop terraces, greenwalls, rooftop gardens and/or other green technologies to improve micro-climatic conditions, energy efficiency, air quality and for stormwater management.						

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6.12 Pier 7 and 8 Urban Design Study (Sustainability Extract)						
6.12.1 A core focus on environmental sustainability should be reflected in both the building and landscape designs.						
6.12.2 Pedestrian and cycling paths can double as a naturalized storm water management area. The landscape features should be engineered to minimize the overall environmental impacts of development. If required, the overall water quality can be maintained by having water flow through an oil grit separator and then into the water gardens.						
6.12.3 An objective for redevelopment at Pier 7 + 8 is to reduce the ecological footprint of the community and to minimize life cycle costs. This is to be achieved through a holistic design approach to development that considers the natural conditions of the site and the sustainability opportunities that arise when planning a new community from the very beginning. Designers will be asked to further the area’s sustainability goals through consideration of the following: <ul style="list-style-type: none"> • Alternate energy sources such as wind or solar should be encouraged in the schematic design phases of each development project. • The landscape and architectural design of the community will highlight its sustainable features. • Landscape architectural design will prioritize the use of indigenous, non-invasive plant material and will promote biodiversity, stormwater management and creation of shade. 						
6.12.4 Cycling should be accommodated in all development plans by providing for secure bicycle parking for visitors, residents and employees.						
6.12.5 Bicycle parking should be placed closer to front doors and key designations.						

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6.12.6 Parking structures should include parking for bicycles, motorcycles, mopeds, e-bikes, small cars, electric car parking with charging stations and accessible parking.						
6.12.7 Parking structures should be designed with the ability to be retrofitted into usable space should the area’s demand for parking be reduced in the future.						
6.12.8 Priority parking spaces should be provided for car share stations.						
6.12.9 Priority parking spaces should be provided for electric cars as well as the provision for electrical supply stations and their expansion should be provided for in utility designs.						
7.0 Mid-Rise Building Design						
7.1 Massing Envelope						
7.1.1 Proposed building designs should fit within the massing envelope described in Sections 7.2 to 7.7 to ensure a compatible mid-rise building.						
7.2 Height						
The maximum building height for a mid-rise building on Block 16 should be no greater than 40.0 metres including the mechanical penthouse.						
7.3 Building Area						
The maximum Gross Construction Area of the mid-rise building, including above ground mechanical spaces but excluding below grade areas is 14,000 square metres.						
7.4 Podium						
A three storey podium is required on the east side of the building flanking the Mews. Storeys above the third storey should be setback a minimum of 3.0 metres. The north, west and south sides for the building may or may not incorporate a podium if adequate wind mitigation measures can be demonstrated.						

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7.5 Ground Floor Height						
7.5.1 All common spaces on the ground floor shall provide a minimum height of 6.0 metres, measured floor-to-floor from average grade.						
7.5.2 At-grade units should, where possible, be elevated approximately 0.6 metres above the flanking public sidewalk, if an accessible path can also be provided, to allow for appropriate public-private transition.						
7.6 Separation Distance and Setback						
7.6.1 The massing envelope for the first 3-storeys should be setback: <ul style="list-style-type: none"> a) A minimum of 1.5 metres from the north, south and west property line; and, b) A minimum of 12.0 metres from the east property line. 						
7.6.2 The following minimum setbacks define the massing envelope above the third storey: <ul style="list-style-type: none"> a) 3.5 metres on the north (this provides a minimum separation distance of 25.0 metres from the Waterfront Promenade); b) 3.0 metres on the west (this provides a minimum separation distance of 30.0 metres from the existing Hamilton Waterfront Trust Centre); c) 3.0 metres on the south; d) 3.0 metres on the east (which provides minimum distance above the third storey of 15.0 metres from Block 1). 						
7.6.3 The following minimum setbacks define the massing envelope above the 10 th floor: <ul style="list-style-type: none"> a) 2.0 metres from the north and west; and 						

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DESIGN PRINCIPLES & DIRECTIONS						
b) 2.0 metres from the east.						
7.7 Building Width and Articulation Large building widths should be mitigated with building articulation and façade changes to provide a fine grain appearance.						
7.8 Green Building Feature Integration of outdoor planting and trees on balconies, terraces and roofs should be provided to the greatest extent possible.						
7.9 Mechanical Penthouse 7.9.1 Roof-top mechanical elements should fit harmoniously and complement the overall architectural design. 7.9.2 Where possible, mechanical penthouses and all rooftop units should be hidden from sight with screening or wrapped by residential units. 7.9.3 Mechanical penthouses may also be recessed from the building face to minimize the perceived height of the building, unless incorporated into the building design.						
7.10 Materiality 7.10.1 Bird friendly designs should be incorporated to reduce bird strikes. 7.10.2 High-quality, durable and sustainable materials should be used. 7.10.3 Materials should be distinct while respecting the rhythm of existing materials used through Pier 8. 7.10.4 Exterior Insulation and Finish System (EFIS) is not permitted.						

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DESIGN PRINCIPLES & DIRECTIONS						
8.0 Tall Building Design Guidelines						
8.1 Massing Envelope						
8.1.1. Proposed building designs should fit within the massing envelope described in Sections 8.2 to 8.8 to ensure a compatible tall building.						
8.2 Building Height						
The recommended maximum height (147.0 metres) was derived from an analysis that reviewed the tallest building presently in Hamilton (Landmark Place), which has a geodetic elevation at 226.0 metres. For Block 16 the recommended maximum geodetic height is slightly lower at 224.0 metres which equates to 147.0 metres above grade. The intent of this recommended height is to avoid a building form that is above the presently established maximum. The 147.0 metre height can accommodate a 45 storey building based on a 6.0 metre ground floor, average floor to floor heights for upper levels at 3.0 metres as well as the height of a mechanical penthouse. The topmost elevation of the structure including the mechanical penthouse cannot be above 147.0 metres. (See Appendix A for maximum height diagrams).						
8.3 Building Area						
The maximum Gross Constructed Area of a tall building, including above ground mechanical spaces but excluding below grade areas, is 38,200 square metres.						
8.4 Podium						
A three storey podium is required on the east side of the building flanking the Mews. Storeys above the third storey should be setback a minimum of 5.0 metres. The north, west and south sides of the building may or may not incorporate a podium if adequate wind mitigation measures can be demonstrated.						
8.5 Lower Development Zone						
8.5.1 The following lower development zone setbacks define the massing envelope to ensure an appropriate transition between public and private spaces: a) 1.5 metres from the north, south and west property lines and a minimum of 4.0 metres from all property lines when adjacent to grade related units.						

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b) 7.5 metres from the east property line.						
8.6 Tower Placement and Separation Distances						
8.6.1 The following minimum building setbacks should be applied to the massing envelope above the third storey to ensure appropriate transition and separation distances between development sites, to provide adequate sky views and sunlight access and to reduce pedestrian level wind impacts: <ul style="list-style-type: none"> a) 11.0 metres on the north to provide a minimum separation distance of 30.0 metres from the Waterfront Promenade; b) 13.5 metres on the west which provides a minimum separation distance of 45.0 metres from the existing Hamilton Waterfront Trust Centre; c) 3.0 metres on the south which connects the vertical and horizontal Greenway; and, d) 5.0 metres on the east which provides a minimum separation distance of 25.0 metres for any buildings above three storeys on Block 1. Any portion of Block 1 above three storeys should incorporate an equivalent 12.5 metre setback in order to achieve an aggregate 25.0 metre separation distance between buildings above three storeys. 						
8.6.2 A multidisciplinary team of wind consultants, designers and engineers should be engaged by the applicant early in the design process to ensure building designs are compliance with appropriate Pedestrian Level Wind conditions.						
8.7 Floor Plate Size and Shape						
8.7.1 To ensure a slender and tapered building design: <ul style="list-style-type: none"> a) Tower floor plates should not exceed 850.0 square metres between the 4th – 30th storeys; and 						

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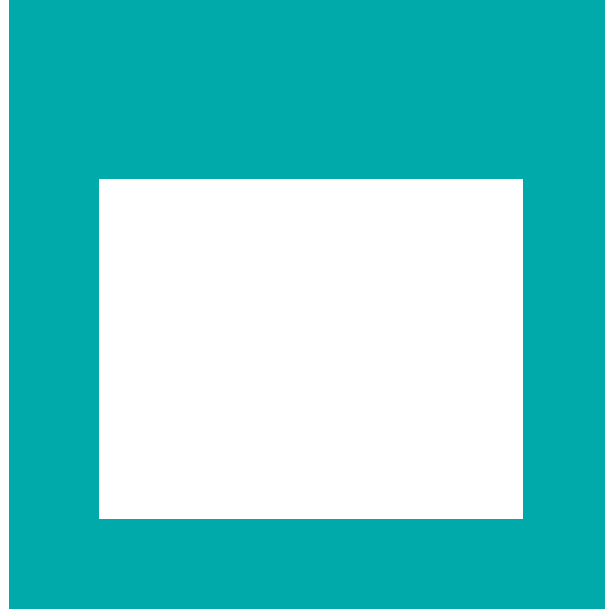
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b) Tower floor plates should not exceed 650 square metres above the 31 st storey.						
8.8 Building Proportion						
8.8.1 A tall building on Block 16 should be proportioned to be slender when viewed from the James Street North corridor.						
8.9 Green Façade						
8.9.1 The south side façade should include unique design patterns and additional balcony and terrace areas to accommodate outdoor planting and landscaping.						
8.10 Building Top (Tower Top)						
8.10.1 Roof-top mechanical elements should be screened and complement the overall tower shape and design.						
8.10.2 If exterior illumination is integrated into the design of a tall building it should enhance and promote the landmark location of Pier 8 and contribute to the character of the Harbour, without adversely impacting the surrounding neighbourhood context.						
8.10.3 Programmable fixtures which can be dimmed or turned off are encouraged to reduce bird strikes during migration season.						
8.11 Materiality						
8.11.1 Materials with a lighter appearance are recommended for the portions of the building above the third floor.						
8.11.2 Bird friendly designs should be incorporated to reduce bird strikes.						

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8.11.3 High-quality, durable, and sustainable materials should be used.						
8.11.4 Exterior Insulation and Finish System (EFIS) is not permitted.						
8.11.5 Landscaping materials should be of high quality including granite pavers for pedestrian paths.						
8.12 Sustainability for a Tall Building						
8.12.1 The design and operations of the building shall limit operational greenhouse gas emissions and encourage use of low-carbon energy sources using whole-building energy modeling and an annual greenhouse gas intensity (GHGI) target to be established and agreed to by the City of Hamilton as contained in the Sustainability Report to be submitted in support of the Official Plan Amendment and Rezoning. 8.12.2 A Building Automation System (BAS) shall be designed to monitor building-level data representing total building energy consumption (electricity, natural gas, chilled water propane, biomass, domestic hot water, etc.) and renewable energy production.						
8.12.3 The building shall be enrolled in Energy Star Portfolio Manager to track energy and water consumption and waste generation of the new development during operations. Enrollment of the project in the program must occur before the project presents Detailed Design to the City of Hamilton Design Review Panel.						
8.12.4 In Energy Star Portfolio Manager, provide the City of Hamilton with read-only access to the project on an annual basis.						

Appendix “D” to Report PED22031
Page 27 of 27

PIER 8 BLOCK 16 DESIGN CHECKLIST DESIGN PRINCIPLES & DIRECTIONS	Complies	Partially Complies	Does Not Comply	Not Applicable	Essential or Discretionary	DESCRIBE HOW THE GUIDELINE OR DESIGN DIRECTION IS MET (provide drawing reference as required)
8.12.5 An Operations & Maintenance (O&M) Manual will be prepared for the project and include direction and guidance for building operators into the building on how to upload data into Energy Star Portfolio Manager on a monthly basis.						
8.12.6 Energy Star certification shall be achieved including provision of Energy Star Certified appliances.						
8.12.7 Complete Energy Modelling, Mechanical Commissioning and Air Tightness testing to the Energy Star certification standard.						
8.12.8 Include high performance façade design that may include elements such as solar shading, lower glazing to wall ratio, triple glazing and renewable materials.						
8.12.9 Complete a Lifecycle Carbon Assessment (LCA) that is third party verified and identify opportunities to reduce carbon emissions through building material selection.						



WELCOME TO THE CITY OF HAMILTON

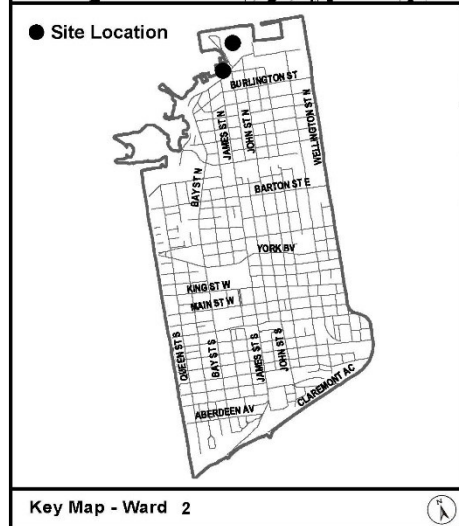
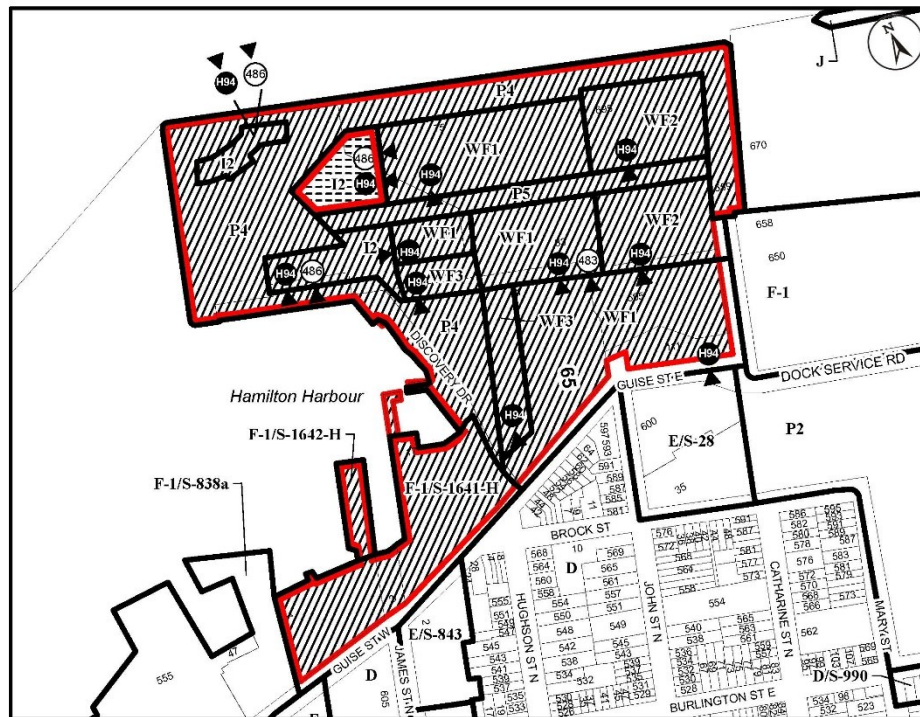
PLANNING COMMITTEE

February 15, 2022

PED22031– (ZAC-22-003 / UHOPA-22-001)

Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East , Hamilton

Presented by: Mark Kehler



Location Map

Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-22-003/UHOPA-22-001	Date: November 23, 2021
Appendix "A"	Scale: N.T.S.
Planner/Technician: MK/NB	

Subject Property
 65 Guise Street East, Hamilton (Ward 2)

- Pier 8 - Block 16
- Additional lands owned by owner

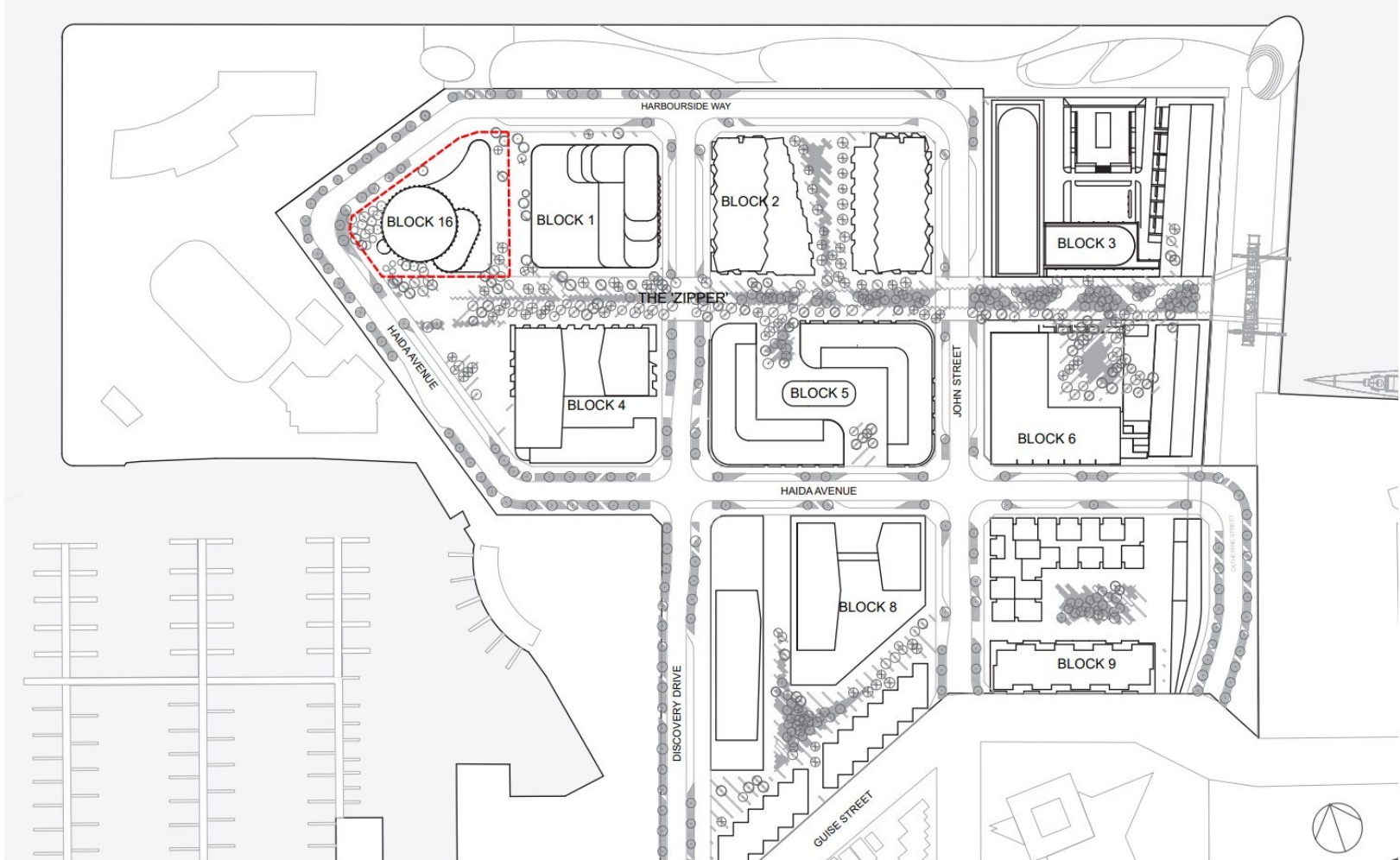


SUBJECT PROPERTY



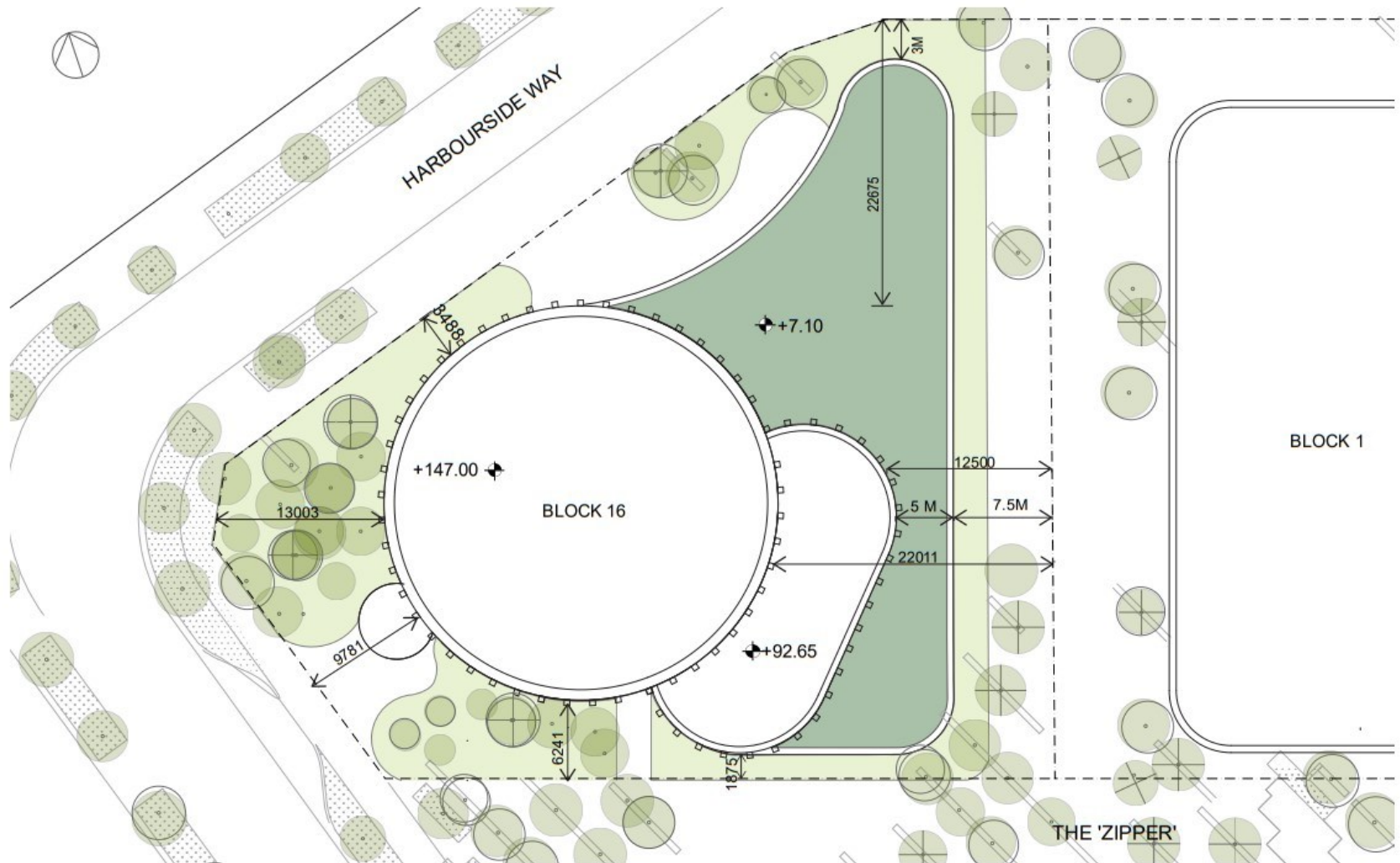
65 Guise Street East, Hamilton

Step	Description	Target Date for Completion
Pier 8 Block 16 Urban Design Guidelines Decision	Pier 8 Block 16 Urban Design Guidelines approved by Council.	August 13, 2021 (complete)
Official Plan Amendment / Zoning By-law Amendment Application	Submission of the Official Plan Amendment / Zoning By-law Amendment and required studies based on the design direction of the Pier 8 Block 16 Urban Design Guidelines.	November 9, 2021 (complete)
Statutory Public Meeting on Official Plan Amendment / Zoning By-law Amendment	Hold the statutory Public Meeting to present the proposed application and receive public input on the Official Plan Amendment / Zoning By-law Amendment.	February 15, 2022
Development of Design Options	The Applicant will engage multiple design professionals to develop three tower designs that address innovation in three areas: sustainability, quality of life and design excellence.	February 2022
Public Information Centre (PIC)	A Public Information Centre (PIC) will be held to present the three tower designs and collect feedback from the public.	March 2022
Special Design Review Panel	A special Design Review Panel will review the feedback received at the PIC and provide comments and feedback on the three tower design options to staff.	March 2022
Official Plan Amendment / Zoning By-law Amendment Decision	Staff will bring forward a recommendation report to Planning Committee on the Official Plan Amendment / Zoning By-law Amendment and preferred tower design option.	September 2022

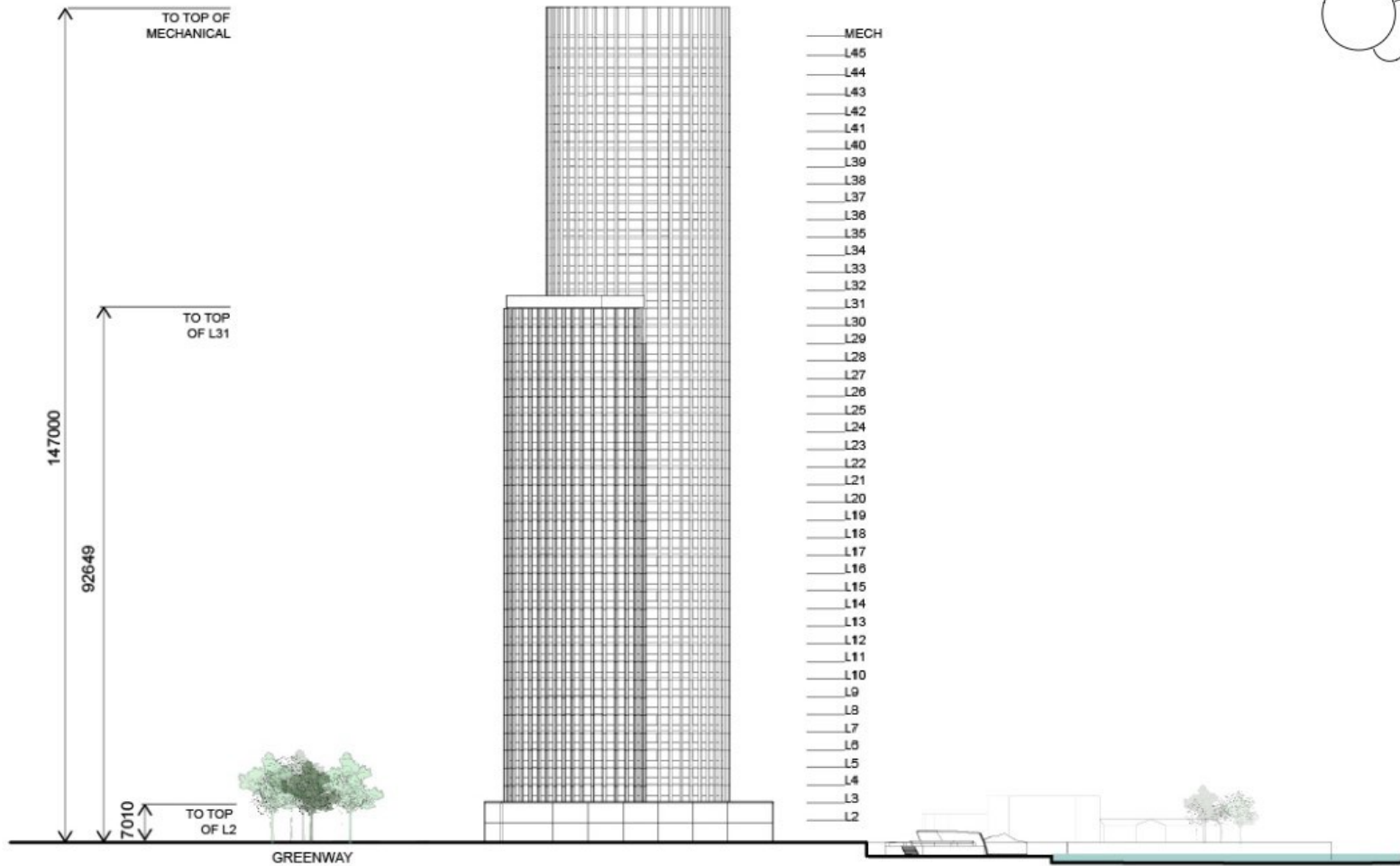


KPMB

PIER 8 SITE PLAN
PIER 8 OCTOBER 27, 2021



KPMB

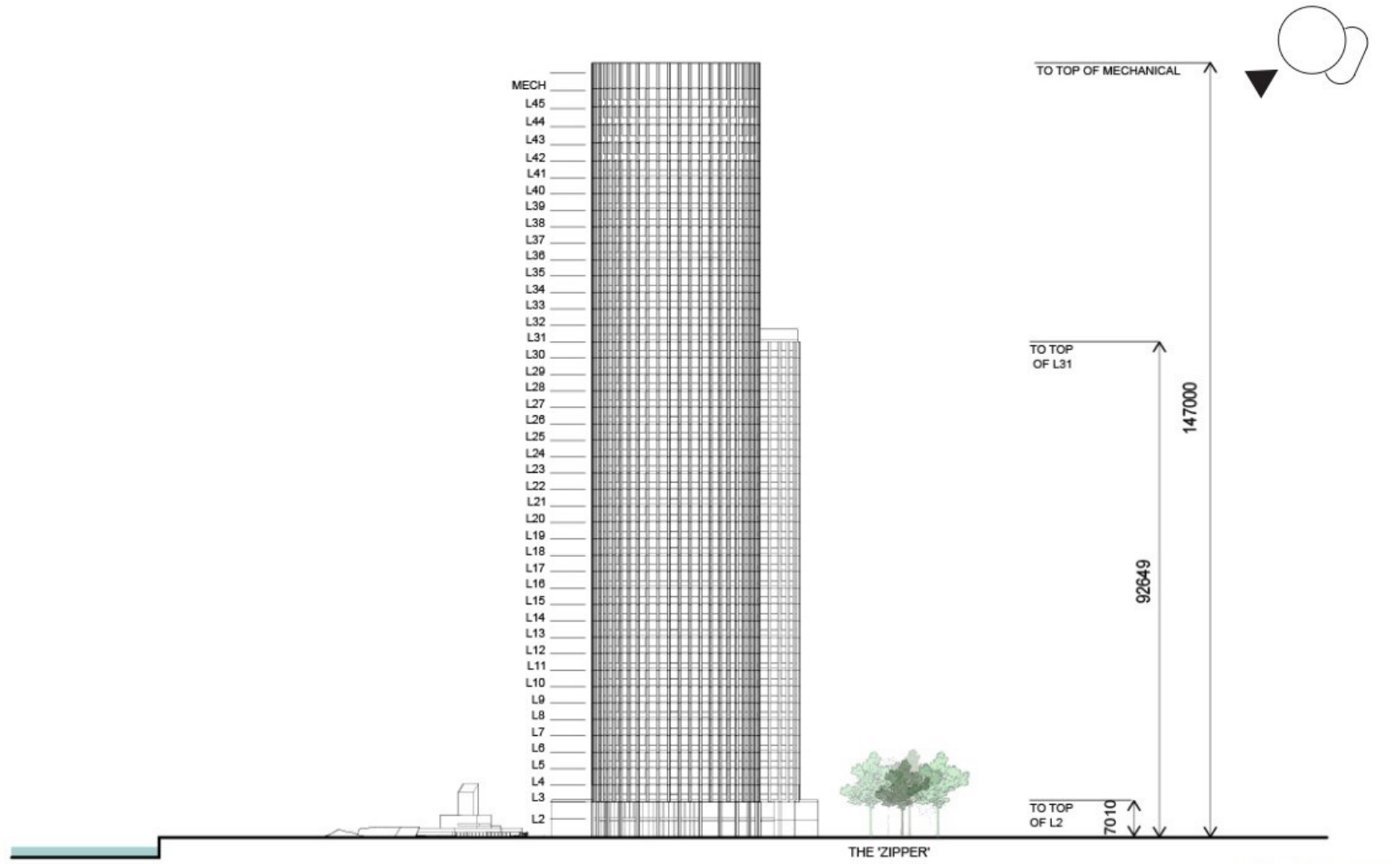


KPMB

6

EAST ELEVATION

PIER 8 OCTOBER 27, 2021



KPMB

7

WEST ELEVATION
PIER 8 OCTOBER 27, 2021



Pier 8 lands as viewed from the intersection of Guise Street East and Discovery Drive looking north



View of Subject Lands



View of adjacent lands to the northwest



View of adjacent lands to the west



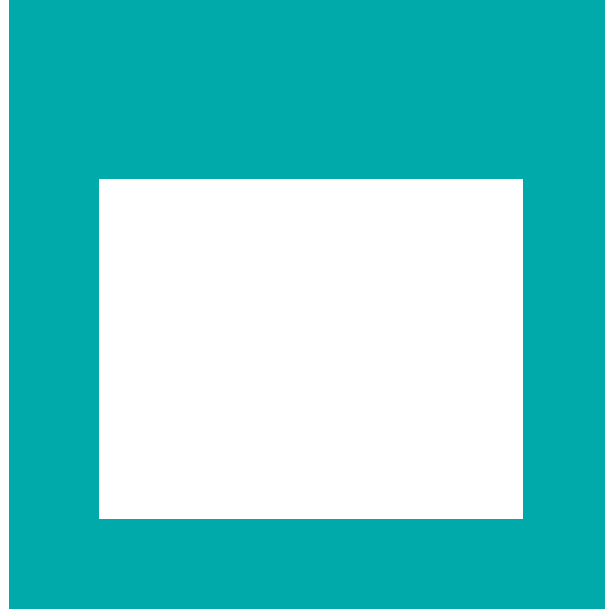
View of adjacent lands to the southwest



View of adjacent lands to the southeast



View of adjacent lands to the east



THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

From: Coleman, Daniel
Sent: Friday, January 28, 2022 4:52 PM
To: clerk@hamilton.ca
Subject: Official Plan Amendment for Pier 8 Block 16

Dear Legislative Coordinator, Planning Committee at the City of Hamilton,

I'm writing to offer comment on the application to amend city bylaws for the Pier 8 development that would permit developments up to 45 storeys at the waterfront.

I understand that architect Bruce Kuwabara of KPMB and his supporters continue to press the idea of the 45-storey "signature building" that exceeds the 8-storey limit of the original development plan. I realize that people have argued that such a building would offer more affordable housing for families as part of the Waterfront Shores development, that it would give a renowned North End architect a chance to design a "signature" building, and that, given the City's decision not to expand the urban boundaries, densification is a greater priority than ever.

But I do not see why a 45-storey building needs to be built right at the very front of the waterfront. Once such a tall building is built, everyone's view will be blocked for as long as the building stands. Furthermore, once one developer is given an exemption to the 8-storey rule, what argument will be used to refuse the next developer from applying for an exemption? Before we know it, we'll have Toronto's and Burlington's plugged waterfront skylines.

If Hamilton wishes to celebrate the architecture of Bruce Kuwabara and to provide housing for 45-storeys'-worth of people, why cannot land be found on some of the brownfields on the south side of the railway yard for such a building, rather than right at the waterfront? Surely, such a building would still tower high above all others in the area and be a defining feature of the north end? I can't see why Hamilton would wish to hazard the humane 8-storey limit for waterfront development by giving this monstrous building an exemption. Once it's built, there's no going back. The view of the waterfront for everyone will be obstructed.

I urge City Planning not to approve this "exception" which will become the rule,

Daniel Coleman

S. CHRISTIAN HOLLINGSHEAD

Date: 01-21-2022
 Property Address: 65 Guise Street East, Hamilton ON
 File References: **UHOPA-22-001, ZAC-22-003**

URBAN OFFICIAL PLAN AMENDMENT (File No. UHOPA-22-001)

OPPOSED TO THIS PLAN AMENDMENT.

Zoning By-law Amendment (File No. ZAC-22-003)

OPPOSED TO THIS PLAN AMENDMENT.

Applicable Development Documents Commissioned by the City of Hamilton;
 Urban Design Study - Brook McIlroy April 21, 2016
 Pier 8 Presentation Panels - KPMB Architects, The Waterfront Shores Corporation

Applicable plans;
 Urban Hamilton Official Plan
 Setting Sail Secondary Plan

Applicable Zoning By-law;
 City of Hamilton's Comprehensive Zoning By-law No. 05-200

Comments:

The City of Hamilton commissioned an urban design study and used this as the basis for tendering development concepts and promoting the redevelopment to the citizens. This urban study defined uses for each new block within the Pier 7-8 development. This comprehensive study has used and references the Urban Hamilton Official Plan and Setting Sail Secondary Plan to justify the proposed use of the "Blocks" within the Pier 7-8 development area.

It is proposed in the application to allow for a 45 storey building (147.0 m height) on the lands located at 65 Guise Street East (Pier 8, Block 16).

The Urban Study suggests that a maximum building height of 8 storeys. The proposed building height of 45 storeys (147.0 m) is **5.625 times the recommended building height**.

The Urban Study suggests that building heights in this development area closest to the existing neighbouring lots be reduce from the maximum suggested building height. 65 Guise St E is one of the closest lots in the development area to the existing

neighbouring lots. The neighbouring lots consist mostly of 3 storey or less structures. Only 2 of the existing neighbouring structures are tall residential buildings (apartment buildings).

The Urban Study suggests that the Pier 7-8 development area be developed in **3 stages**. The lot at 65 Guise St E is part of the proposed Phase 1 development. **The precedent set during Phase 1 will affect the future development philosophies and policies for the Phase 2 and Phase 3.**

The Urban Study suggests that the Urban Hamilton Official Plan and Setting Sail Secondary Plan are well suited to be the guiding principles for development of the Pier 7-8 area. The Setting Sail Secondary Plan also guides development policy for James St N, including building heights.

The Setting Sail Secondary Plan guides development of building heights and residential density. **The Setting Sail Secondary Plan clearly indicates that in contradiction between density standards and building height standards, building height regulations should be considered as a priority.**

In summary, if the the application to allow a building height of 45 storeys (147.0m) is permitted for the lands located at 65 Guise St E (Pier 8, Block16), any increase in building height for future development within the Pier 7-8 development area and the James St N corridor will have to be given consideration up to a maximum of an additional 5.625 times the recommended building height.

Applicable excerpts from the Urban Design Study;

- 6.2.1 Secondary Plan Amendments (page 95) Through the preparation of this Urban Design Study it was determined that the policies of the Secondary Plan are well suited to shape development on the Piers.
- 65 Guise St E is contained on Block I, as identified in the study on (page 89, 5.7 Blocks I/J)
- 3.2.5. A Diversity of Land-Use (page 40) designates Block I as medium density residential
- Existing Built Form (page 10) The mix of existing building types supports a mid-rise form (3-8 storeys) that decreases in height as it approaches the low rise homes to the south. The block massing table indicates the appropriate number of storeys as 6-8. Key Design Considerations notes that "Building heights shall be lower along Guise Street where existing low-rise homes are located to the south"
- 2.3 CHARACTER PRECEDENTS (page 20) "The key features that were

consistently noted in each of the communities include: A human-scaled development that frames the streets and open spaces"

- 4.10. Mid-Rise Buildings (page 78); New development within the Pier 7 + 8 area is recommended to be mid-rise at 3-8 storeys in height in accordance with the Secondary Plan
- 6.4.2. Phase 1 Development (page 100); Establishing the blocks along Guise Street will help establish the edge condition for the Pier 8 community,

The Urban Hamilton Official Plan suggests the following principles:

- Scale; 3.5.7 For medium density residential uses, the net residential density shall be greater than 60 units per hectare and not greater than 100 units per hectare (page E3, 5 of 12)
- Scale; 3.5.8 For medium density residential uses, the maximum height shall be six storeys (page E3, 5 of 12)
- Design 3.5.9 (c) The height, massing, and arrangement of buildings and structures shall be compatible with existing and future uses in the surrounding area (page E3, 5 of 12)
- 2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria: b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form; d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. g) the ability of the development to comply with all applicable policies. (page B2, 4 of 6)
- 2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated: a) the matters listed in Policy B.2.4.1.4; b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects; c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings; d)

the consideration of transitions in height and density to adjacent residential buildings; e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;

-

The Setting Sail Secondary Plan suggests the following principles:

- A.6.3.3.1.4 All new development in West Harbour shall be subject to the height limits shown on Schedule “M-4”, Building Heights, and prescribed in the specific policies of this plan (page 10)
- **A.6.3.3.1.5 Where there is a discrepancy between the maximum heights and density ranges in this plan when applied to specific sites, the maximum height limits shall prevail and be adhered to (page 10)**
- A.6.3.5.1.17 Prior to zoning by-law amendments to permit the development of any new buildings on Piers 7 and 8, a comprehensive urban design study of the entirety of both piers shall be completed. The study shall determine the appropriate height and massing of new buildings, taking into consideration impacts on public views, sunlight penetration, privacy and wind conditions. **If the urban design study recommends building heights greater than the maximum heights permitted by the above-referenced policies, an amendment to this plan shall be required.** (page 37)
- Schedule M-4: Building Heights (map) indicates that the building height for 65 Guise St E is governed by the Setting Sail Secondary Plan
- Schedule M-2: General Land Use (map) indicates that the land use for 65 Guise St E is Medium Density Residential and Medium Density Residential 2
- A.6.3.5.1.12 (page 36) xi) the design and massing of buildings shall minimize shadow and wind impacts on the public realm; xii) the design of new developments shall have respect for the light, views and privacy enjoyed by residents in adjacent buildings and areas.

The City of Hamilton’s Comprehensive Zoning By-law No. 05-200 provides the following applicable requirements:

- 14.1.1 PERMITTED USES - "Multiple Dwelling" (SECTION 14: WATERFRONT

ZONES)

- 14.1.2 REGULATIONS - "c) Building Height Shall be provided in accordance with Figure 12 of Schedule F: Special Figures" (SECTION 14: WATERFRONT ZONES)
- Figure 10: Waterfront Block Plan - this plan assigns block # 9, 10, 11 to the block containing 65 Guise St E
- **Figure 12: Waterfront Zones - Building Heights - This table assigns a maximum building height for Block 10 = 8 storeys, 30m, for Block 11 = 3 storeys, 11.5m**
- Figure 14: Waterfront Zones - Residential Unit Restrictions, sets a maximum number of units at 247 units for Blocks 9, 10 and 11, and Maximum 18,000 square metres for residential uses and a maximum 3000 square metres for commercial uses for Blocks 9, 10, and 11

Sincerely,

S. Christian Hollingshead

Property Owner

[REDACTED]

Hamilton ON

PETITION AGAINST 45 STORY TOWER ON PIER 8

We the residents of north end of Hamilton OBJECT to the changing of official plan amendment (file no, uhopa-22-001) and the zoning by-law amendment (file no, zac-22-003).

The City of Hamilton has so far done a great job of revitalizing the north end waterfront, creating parks and recreation areas for all Hamiltonians and their families to enjoy . Festivals and special events have flourished.

Many of the existing residents of the north end have enjoyed the the low traffic quiet neighbourhood of the past, but have excepted the rebirth of the waterfront as it has enhanced the waterfront and created a great destination for all to enjoy.

Then came the housing developments which we objected to with the belief the area should be maintained as waterfront recreation .

But in the end the housing was accepted as an unassuming development which would blend in and allow others to join the community of waterfront living we have enjoyed.

We find that allowing the building of a massive tower of 45 storeys will greatly effect the quality of life and enjoyment of residents already settled in the area.

A building of this magnitude is undesirable in this location as it will

detract from the aesthetics of the area taking away the park and waterfront feel and making it into a concrete jungle

it will also create shadowing for all residence existing and in the new developments

it will create severe traffic congestion ,by over intensifying an area with limited access. It will diminish the quality of life.

More importantly allowing a 45 story tower in this location will defeat the whole purpose of a 15 year Setting Sail process initiated by the City of Hamilton itself.

Never once ,during this 15 year consultation process was a 45 story building mentioned or contemplated. Four stories was a possibility in the modelling at Werner Plessels office at the Waterfront Trust. Nothing too severe. Nothing too disruptive to the existing neighbourhood and historically mild traffic patterns. Nothing that would block out the sun.

This notion of 45 stories is bait and switch at its vulgar worst. It is dishonest, it renders the engagement process meaningless.

Bruce Kuwabarar involvement ,and his north end roots do not trump the good faith participation of hundreds (if not thousands) of north end residents. Mr Kuwabarar lives and works in toronto.

Please do the honourable thing and reject this tower proposal.

Scott Peterson

name

address

contact

Jan Hockridge

Jacqueline Hockridge

continued on back

PETITION AGAINST 45 STORY TOWER ON PIER 8

George Konstantinos [redacted]

Beryl Paul [redacted]

D. King [redacted]

M. Thomson [redacted]

J Witt [redacted]

Nina Lontro [redacted]

Genese Long [redacted]



Catherine Chamber [redacted]

Kelsey McIntyre [redacted]

Franci Cahoon [redacted]

Kelly McBurn [redacted]

Justine Wadden [redacted]

JOEL [redacted]

[redacted]

PETITION AGAINST 45 STORY TOWER ON PIER 8

We the residents of Guise st east OBJECT to the changing of official plan amendment (file no, uhopa-22-001) and the zoning by-law amendment (file no, zac-22-003).

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Please do the honourable thing and reject this tower proposal.

Scott Pattesson [redacted]
 name address contact

W. Wardenberg [redacted]

[redacted] [redacted]
 continued on back [redacted]

Feb 15 on line

PETITION AGAINST 45 STORY TOWER ON PIER 8

ABinglik

[REDACTED]

Wf MCINTYRE

[REDACTED]

Annie Van

[REDACTED]

Jon

[REDACTED]

W. WINE BIGZOOD

[REDACTED]

Pam Bigelow

[REDACTED]

Sam Nieuwhof

[REDACTED]

Emily Newton

[REDACTED]

Kathryn Semogas

[REDACTED]

Chase Thomson

[REDACTED]

Cindy Match

[REDACTED]

Carlo Henriquez

[REDACTED]

Gabriela Castillo

[REDACTED]

nelia street

[REDACTED]

Nathan J. Cooper

[REDACTED]



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 15, 2022
SUBJECT/REPORT NO:	Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law No. 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	James Van Rooi (905) 546-2424 Ext. 4283
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Urban Hamilton Official Plan Amendment Application UHOPA-21-023, by GSP Group Inc. (c/o Brenda Khes, Applicant) on behalf of 2691893 Ontario Inc. (c/o IronPoint Capital Management Inc., Owner)** to establish a Site Specific Policy Area in the Ancaster Wilson Street Secondary Plan to permit a seven storey retirement home with 211 beds and four commercial units, or permit a six storey, 161 unit mixed use building with seven commercial units, on lands located at 442, 450, 454 and 462 Wilson Street East, Ancaster, as shown on Appendix "A" attached to Report PED22037, be **DENIED** on the following basis:
- (i) That the proposed amendment does not meet the general intent of the Urban Hamilton Official Plan and the Ancaster Wilson Street Secondary Plan with respect to building height, scale, massing, privacy, overlook, compatibility, and enhancing the character of the existing neighbourhood;
 - (ii) That the proposal is not considered to be good planning and is considered an over development of the site;

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.

SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 2 of 37

- (b) That **Zoning By-law Amendment Application ZAC-21-049, by GSP Group Inc. (c/o Brenda Khes, Applicant) on behalf of 2691893 Ontario Inc. (c/o IronPoint Capital Management Inc., Owner)** to further modify the Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone in order to permit a seven storey retirement home with 211 beds and four commercial units, or permit a six storey, 161 mixed use building with seven commercial units, on lands located at 442, 450, 454 and 462 Wilson Street East, Ancaster, as shown on Appendix “A” attached to Report PED22037, be **DENIED** on the following basis:
- (i) That the proposed change in zoning does not meet the general intent of the Urban Hamilton Official Plan and the Ancaster Wilson Street Secondary Plan with respect to setbacks, building height, and massing;
 - (ii) That the proposal is not considered to be good planning and is considered an over development of the site.

EXECUTIVE SUMMARY

The purpose of the Applications is to amend the Urban Hamilton Official Plan (UHOP) and Zoning By-law No. 05-200 to permit the subject lands to be redeveloped for one of two options as follows:

Option one - Seven storey retirement home with 211 beds and four commercial units totalling 263 square metres along with one level of underground parking with a total of 74 parking spaces.

Option two - Six storey, 161 unit mixed use building with seven commercial units with a total of 836 square metres of commercial space along with two levels of underground parking with a total of 133 parking spaces.

Both the retirement home and mixed use building concepts propose to retain buildings on 450 and 442 Wilson Street East. Additional site specific provisions are proposed to the Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone to facilitate the proposed development.

The site is presently designated “Mixed Use - Medium Density” within the Ancaster Wilson Street Secondary Plan and zoned Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone.

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

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SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 3 of 37

The proposed Official Plan and Zoning By-law amendments do not meet the general intent of the UHOP and the Ancaster Wilson Street Secondary Plan with respect to matters including but not limited to:

- Building height;
- Residential density;
- Massing;
- Privacy;
- Overlook;
- Setbacks; and,
- Compatibility with and enhancement of the character of the existing neighbourhood.

This proposal is not considered to be good planning and is considered an overdevelopment of the site. Staff recommend that the Applications be denied.

Alternatives for Consideration – See Page 37

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an Application for an Official Plan Amendment and Zoning By-law Amendment.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Owner:	2691893 Ontario Inc. (c/o IronPoint Capital Management Inc.)
Applicant/Agent:	GSP Group Inc. (c/o Brenda Khes)
File Number:	UHOPA-21-023 ZAC-21-049
Type of Application:	Urban Hamilton Official Plan Amendment Zoning By-law Amendment

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

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SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 4 of 37

Application Details									
Proposal:	<p>Option one - a seven storey retirement home with 211 beds and four commercial units with one level of underground parking with 74 parking spaces.</p> <p>Option two - a six storey, 161 unit mixed use building with seven commercial units and two levels of underground parking with 133 parking spaces (see the Architectural Concepts attached as Appendix “B” to Report PED22037).</p> <p>Both options propose to retain buildings on 450 and 442 Wilson Street East and the building on 454 Wilson Street East is proposed to be demolished.</p>								
Property Details									
Municipal Address:	442, 450, 454 and 462 Wilson Street East (see Location Map attached as Appendix “A” to Report PED22037).								
Lot Area:	±0.57 ha (generally rectangular)								
Servicing:	Full municipal services.								
Existing Use:	<table border="0"> <tr> <td>442 Wilson Street E</td> <td>Commercial Building</td> </tr> <tr> <td>450 Wilson Street E</td> <td>Single Detached Dwelling</td> </tr> <tr> <td>454 Wilson Street E</td> <td>Single Detached Dwelling</td> </tr> <tr> <td>462 Wilson Street E</td> <td>Vacant (formerly Brandon House)</td> </tr> </table>	442 Wilson Street E	Commercial Building	450 Wilson Street E	Single Detached Dwelling	454 Wilson Street E	Single Detached Dwelling	462 Wilson Street E	Vacant (formerly Brandon House)
442 Wilson Street E	Commercial Building								
450 Wilson Street E	Single Detached Dwelling								
454 Wilson Street E	Single Detached Dwelling								
462 Wilson Street E	Vacant (formerly Brandon House)								
Documents									
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).								
A Place to Grow:	The proposal conforms to A Place to Grow (2019).								
Official Plan Existing:	“Neighbourhoods” and “Community Node” on Schedule E – Urban Structure and “Mixed Use - Medium Density” on Schedule E-1 – Urban Land Use Designations.								
Official Plan Proposed:	To permit a retirement home or a mixed use building within the “Mixed Use - Medium Density” designation.								
Secondary Plan Existing:	Ancaster Wilson Street Secondary Plan – “Mixed Use - Medium Density” with a “Pedestrian Focus” as shown on the Ancaster Wilson Street Secondary Plan Landuse Plan, and are within the “Community Node Area”, and the “Village Core” Character Area as shown on Appendix A of the Ancaster Wilson Street Secondary Plan Character Areas and Heritage Features.								

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Documents	
Secondary Plan Proposed:	Ancaster Wilson Street Secondary Plan – “Mixed Use - Medium Density with a Site Specific Policy Area to permit a seven storey retirement home or to permit a six storey mixed use building with commercial space on the ground floor.
Zoning Existing:	Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone.
Zoning Proposed:	Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone with additional site specific provisions.
Further Modifications Proposed:	<p>Addition to permitted uses:</p> <ul style="list-style-type: none"> • Retirement Home. <p>Increases in:</p> <ul style="list-style-type: none"> • Maximum building setback from a street line from 3 metres to 3.5 metres; • Building height from a maximum of 9 metres to a maximum of 24 metres (seven storeys) for a Retirement Home or to a maximum of 22 metres (six storeys) for a multiple dwelling; and, • Built form for New Development – maximum height of 4.5 metres for the first storey to 5.5 metres for the first storey. <p>Reductions in:</p> <ul style="list-style-type: none"> • Minimum rear yard from 7.5 metres to 1.5 metres; • Minimum Side Yard from 7.5 metres abutting a Residential or Institutional Zone or lot containing a residential use to 2.5 to 6 metres for a portion of the proposed building; and, <p>Built form for New Development – Minimum percent of the area of the ground floor façade facing the street composed of doors and windows from 60% to 39%.</p>
Processing Details	
Received:	September 30, 2021
Deemed Complete:	October 29, 2021
Notice of Complete Application:	Sent to 54 property owners within 120 m of the subject lands on December 2, 2021.
Public Notice Sign:	Posted December 3, 2021 and updated with Public Meeting date January 19, 2022.
Notice of Public Meeting:	<ul style="list-style-type: none"> • Sent to 54 property owners within 120 m of the subject lands on January 27, 2022; and, • Statutory notice given by way of newspaper in accordance with the provisions of the <i>Planning Act</i> on January 27, 2022.

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Processing Details	
Public Comments:	64 letters / emails expressing concern (see Appendix “C” attached to Report PED22037). One letter/email expressing support.
Processing Time:	139 days from date Application was submitted.

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	442 Wilson Street E- Commercial Building,	Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone
	450 Wilson Street E- Single Detached Dwelling,	
	454 Wilson Street E- Single Detached Dwelling,	
	462 Wilson Street E – Vacant	

Surrounding Land Uses:

North	Single Detached Dwellings	Deferred Development “D” Zone
South	Commercial Buildings	Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone
East	Single Detached Dwellings	Existing Residential “ER” Zone
West	Single Detached Dwelling, Commercial Building and Institutional	Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone and Institutional “I” Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2020)

The following policies of the PPS (2020), amongst others, are applicable to the Applications.

“1.1.3.1 *Settlement areas* shall be the focus of growth and development.

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- 1.1.3.2 Land use patterns within *settlement areas* shall be based on densities and a mix of land uses which:
- a) Efficiently use land and resources;
 - b) Are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
 - c) Minimize negative impacts to air quality and climate change, and promote energy efficiency;
 - d) Prepare for the *impacts of a changing climate*;
 - e) Support *active transportation*; and,
 - f) Are transit-supportive, where transit is planned, exists or may be developed;
- 1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for *transit-supportive* development, accommodating a significant supply and range of *housing options* through *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs;
- 1.1.3.4 Appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety;
- 1.4.3 Planning authorities shall provide for an appropriate range and mix of *housing options* and densities to meet projected market-based and affordable housing needs of current and future residents of the *regional market area* by:
- b) Permitting and facilitating:
 1. All *housing options* required to meet the social, health, economic and well-being requirements of current and future residents, including *special needs* requirements and needs arising from demographic changes and employment opportunities; and,

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2. All types of *residential intensification*, including additional residential units, and *redevelopment* in accordance with policy 1.1.3.3;
 - c) Directing the development of new housing towards locations where appropriate levels of *infrastructure* and *public service facilities* are or will be available to support current and projected needs;
 - d) Promoting densities for new housing which efficiently use land, resources, *infrastructure* and *public service facilities*, and support the use of *active transportation* and transit in areas where it exists or is to be developed;
 - e) Requiring *transit-supportive* development and prioritizing *intensification*, including potential air rights development, in proximity to transit, including corridors and stations; and,
 - f) Establishing development standards for *residential intensification*, *redevelopment* and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.

In response to Policy 1.1.3.2, the proposal provides for the efficient use of land and resources by intensifying in the existing built-up area where there are existing services. The proposal is located along a major arterial road (being Wilson Street East) and a minor arterial road (being Rousseaux Street) where transit exists and may be further developed. There are three Hamilton Street Railway (HSR) bus routes that service the site being Routes 16, 5A and 5C. Route 16 provides a connection through Ancaster from Meadowlands to Duffs Corners, whereas Routes 5A and 5C serve east to west lower Hamilton from Ancaster and Dundas to Stoney Creek. The proposed development will support active transportation and provide opportunities for multi-modal transportation options.

In response to Policy 1.1.3.2 b), the Applicant has not demonstrated that the proposal complies with the sanitary sewer design criteria. Staff note that the sanitary sewers along Wilson Street East and Rousseaux were designed for 125 people per hectare and 60 people per hectare, respectively. Staff have concerns that the proposal's population density would exceed design capacity and have downstream impacts. It has also been identified that the proposed development would result in an increase in traffic that the current intersection/local roadways will have trouble accommodating as they are already approaching capacity. The mixed use building would increase the traffic from the current zoning permission site by 20 peak hour trips.

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Policies 1.4.3 speaks to the promotion of an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the regional market area. The proposed use of the subject lands for either a retirement home or a mixed use building would help contribute to a range and mix of housing types.

Archaeology

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

The subject lands meet four (two primary and two secondary) criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 3) In areas of pioneer EuroCanadian settlement; and,
- 4) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, a Stage 1 Archaeological Assessment Report (P321-0271-2021) were completed for the subject lands and were submitted to the City of Hamilton and the MHSTCI. The Report recommends that further Archaeological work should be conducted to address the archaeological potential of the subject property. While the Provincial interest has yet to be signed off by the Ministry, staff concur with the recommendations made in the reports.

Noise

“1.2.6.1 Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.”

As the proposed development is a sensitive land use that is within 400 metres of a major arterial road, and within 100 metres of a minor arterial road, a detailed noise

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study is required to identify any noise mitigation measures/construction techniques that may be required and any necessary warning clauses for future residents of the units.

The Applicant submitted a Noise Feasibility Study prepared by dBA Acoustical Consultants Inc, dated August 2021, in support of the proposed development. The study reviewed the acoustic requirements for this development with respect to noise anticipated from Wilson Street East and Rousseaux Street.

Based on the results of the study, the use of the subject lands for a residential land use or similar sensitive land use would require that noise warning clauses are to be included in any future Site Plan undertaking and in all agreements of purchase and sale or lease and all rental agreements.

Based on the foregoing, and subject to the satisfactory resolution of the archaeological, noise, servicing and transportation related matters, the use of the subject lands for residential or similar uses would be consistent with the PPS (2020).

A Place to Grow (2019)

The policies of A Place to Grow (2019) apply to any planning decision. The proposal conforms to the Guiding Principles, Section 1.2.1 of A Place to Grow (2019). The following policies, amongst others, apply to this proposal.

“2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) The vast majority of growth will be directed to *settlement areas* that:
 - i. Have a *delineated built boundary*;
 - ii. Have existing or planned *municipal water and wastewater systems*; and,
 - iii. Can support the achievement of *complete communities*;
- c) Within *settlement areas*, growth will be focused in:
 - i. *Delineated built-up areas*;
 - ii. *Strategic growth areas*;
 - iii. Locations with existing or planned transit, with a priority on *higher order transit* where it exists or is planned; and,
 - iv. Areas with existing or planned *public service facilities*;

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- 2.2.1.4 Applying the policies of this Plan will support the achievement of *complete communities* that:
- a) Feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and *public service facilities*;
 - c) Provide a diverse range and mix of housing options, including second units and *affordable* housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes; and,
 - e) Provide for a more *compact built form* and a vibrant *public realm*, including public open spaces;”

The subject lands are located within the built-up area of Hamilton, and the lands are within or in proximity to the Community Node that is associated with the former Ancaster downtown where the City has targeted for intensification. The subject lands are located where full municipal services are available, and along an existing transit route. The proposed development will contribute to creating complete communities by providing an additional housing form for an area with convenient access to local stores and services.

As discussed in the Provincial Policy Statement section above, there are concerns regarding the existing and planned sanitary servicing capacity and existing roadway infrastructure to accommodate the proposed development.

Based on the foregoing, and subject to the satisfactory resolution of the servicing, transportation and other issues, as discussed in the PPS section of this Report PED22037, the redevelopment of the subject lands for residential and similar uses would be conformity with A Place to Grow (2019).

Urban Hamilton Official Plan (UHOP)

The subject lands are identified as: “Neighbourhoods” and “Community Node” on Schedule E – Urban Structure. “Mixed Use – Medium Density” on Schedule E-1 – Urban Land Use Designations. “Mixed Use - Medium Density” on Map B.2.8-1 – Ancaster Wilson Street Secondary Plan – Land Use Plan with a “Pedestrian Focus”. The lands are also within the “Community Node Area” and the “Village Core” Character Area in Appendix A - Character Areas and Heritage Features.

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The following policies, amongst others, apply to the proposal:

Mixed Use - Medium Density Designation

- “E.4.6.1 The range of commercial uses is intended to serve the surrounding community or series of neighbourhoods as well as provide day-to-day retail facilities and services to residents in the immediate area. These areas shall also serve as a focus for the community, creating a sense of placel
- E.4.6.2 The Mixed Use - Medium Density designation shall be applied to traditional ‘main street’ commercial areas outside of the area designated Downtown Mixed Use, and to promote the continuation of these areas as pedestrian oriented mixed use areas. Retail and service commercial uses are key elements in maintaining that function and ensuring the continued vibrancy of the pedestrian realm;
- E.4.6.4 It is also the function of areas designated Mixed Use - Medium Density to serve as vibrant people places with increased day and night activity through the introduction of residential development. Residential development enhances the function of these areas as transit supportive nodes and corridors;
- E.4.6.5 The following uses shall be permitted on lands designated Mixed Use - Medium Density on Schedule E-1 – Urban Land Use Designations:
- a) Commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices, medical clinics, personal services, financial establishments, live-work units, artist studios, restaurants, gas bars, and drive-through facilities; (OPA 64)
 - f) Multiple dwellings;...
- E.4.6.9 The predominant built form shall be mid rise and low rise, mixed use buildings that have retail and service commercial stores at grade. Single use commercial buildings and medium density ground related housing forms shall also be permitted, except for pedestrian focus streets as listed by Policy E.4.3.1. (OPA 65) (OPA 142);
- E.4.6.10 Permitted uses shall be located in single or mixed use buildings;
- E.4.6.15 Although residential development is permitted and encouraged, it is not the intent of the Plan for the Mixed Use - Medium Density designated areas to lose the planned retail and service commercial function set out in this Plan;

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- E.4.6.16 New development shall be designed and oriented to create comfortable, vibrant and stimulating pedestrian oriented streets within each area designated Mixed Use - Medium Density;
- E.4.6.17 Areas designated Mixed Use - Medium Density are intended to develop in a compact urban form with a streetscape design and building arrangement that supports pedestrian use and circulation and create vibrant people places;
- E.4.6.18 In the historic former downtowns and main streets, a strong historic pedestrian focus is long established, and shall be enhanced through new development; and,
- E.4.6.22 Development Applications shall be encouraged to provide a mix of uses on the site.”

The retirement home option includes four commercial units with a total of 263 square metres of commercial space. Two commercial units are proposed at ground level near the northwest corner of the proposed development (closer to the intersection of Wilson Street East and Rousseaux Street), with sizes of 50 square metres and 91 square metres. Two additional commercial units with sizes of 74 square metres and 48 square metres are proposed within the retained buildings at 442 and 450 Wilson Street East, respectively.

The mixed use building option includes seven commercial units with a total of 836 square metres of commercial space. Four commercial units are proposed at ground level near the intersection of Wilson Street East and Rousseaux Street, with sizes of 67 square metres, 97 square metres, 109 square metres and 152 square metres. One commercial unit of 289 square metres is proposed on the second floor midway along the property line on Wilson Street East and would have access from Wilson Street East. Similarly to the retirement home, the mixed use building would retain the buildings at 442 and 450 Wilson Street East for commercial space totalling 74 square metres and 48 square metres, respectively. The commercial uses would provide day-to-day services for the residents of the retirement home/mixed use building and serve the surrounding community.

Retail and service commercial uses are key elements in maintaining that function and ensuring the continued vibrancy of the pedestrian realm. The retirement home option shows no access points along Wilson Street East north of the proposed retained heritage building (450 Wilson Street East), and no street furniture, pedestrian level lighting, or short-term bike parking to enhance the pedestrian realm. The mixed use building does provide an access point off Wilson Street East, however vibrancy of the pedestrian realm could be improved with an additional entrance from Wilson Street East.

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Policy E.4.6.9 does not permit ground related housing and the retirement home proposal does not contain any ground floor bedrooms and would comply with the policy. The mixed use building would not comply as the ground floor proposes five residential units. Policies E.4.6.16 – E.4.8.17 encourage design that is pedestrian oriented. As mentioned previously, a design that would include more entrances off Wilson Street East would be more aligned with policies that are intended to promote pedestrian focus areas.

Policy E.4.6.18 indicates that new development should enhance historic areas. It is noted that the historic Ancaster downtown area is unique in that the street front has many breaks and spacing between buildings. Based on the scale and massing of the proposed building, the proposed retirement home or mixed use building would interrupt this pattern.

Residential Intensification

“B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:

- a) A balanced evaluation of the criteria in b) through g), as follows;
- b) The relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) The development’s contribution to maintaining and achieving a range of dwelling types and tenures;
- d) The *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) The development’s contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) Infrastructure and transportation capacity; and,
- g) The ability of the development to comply with all applicable policies.

B.2.4.2.2 When considering an Application for a residential intensification *development* within the Neighbourhoods designation, the following matters shall be evaluated:

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- a) The matters listed in Policy B.2.4.1.4;
- b) *Compatibility* with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) The relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) The consideration of transitions in height and density to adjacent residential buildings;
- f) The provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) The ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) The ability to complement the existing functions of the neighbourhood; and,
- j) Infrastructure and transportation capacity and impacts.”

The development provides for intensification within the Ancaster Community Node, as directed by the policies cited above. With respect to character, the existing surrounding buildings consist of low rise-built form being mainly 1 to 2.5 storeys in height. Areas to the north, on Rousseau Street, are single detached dwellings on large lots. To the east is a single detached dwelling on a 0.51 hectare lot. To the south is a single detached dwelling used for commercial purposes, and to the west is a commercial plaza with a two storey building, a single detached dwelling and an institutional property that functions as a retreat facility.

Policy B.2.4.1.4 (d) requires that development should be compatible in terms of use, scale, form and character. While compatibility does not necessarily mean that the development must be identical to existing adjacent development, it does mean that proposed development needs to be in keeping with the surrounding context of the area.

The surrounding area is made up of low rise built form and there are no other properties within the Village Core Area that are higher than three storeys. The adjacent residential neighbourhoods also do not contain any buildings of a mid or high rise-built form. In terms of density, the proposed mixed use building is 283 units per hectare, this is higher than the City's in force and affect high density designation, which allows up to a maximum of 200 units per hectare and is directed to primary and secondary corridors. As mentioned previously, Wilson Street has a distinctive street character, rhythm and

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pattern spacing between low rise buildings. The proposal at six or seven storeys would project much higher than that of surrounding properties. The setbacks proposed such as the eastern side yard setback and the southern rear yard setback coupled with the heights project into the 45-degree angular plane which is a best practice to achieve compatibility by managing overlook issues. The encroachment into the 45 degree angular plane results in adverse impacts onto neighbouring properties. With the proposed height, density, massing, and setbacks the proposed building would be a departure from the surrounding context. Based on staff's review, the proposed development is not compatible with the existing surrounding development.

With respect to policy B.2.4.2.2, staff are concerned that the proposed scale of the development is not in keeping with the existing character of the neighbourhood. While medium to high density residential development contributes to several planning objectives, staff note that the Ancaster Wilson Street Secondary Plan's vision and intent carefully considers the merits of maintaining low-rise built form and has further considered the development densities that are based on transportation constraints. The proposed development, with additional height for both the retirement home or the mixed use building and a density of 283 units per hectare, represents an overdevelopment of the site, and is not in keeping with the surrounding area. The proposal does not meet the residential intensification policies of the UHOP, as the proposal does not provide appropriate transitional measures such to mitigate the height, scale, and massing being proposed. As such, the proposal does not build upon or enhance the established and planned character of the neighbourhood. It is the opinion of staff that the proposal does not demonstrate compatible integration with the surrounding area.

The Functional Servicing Report (FSR), prepared by S. Llewellyn & Associates Limited and dated August 2021, does not provide population projections for sanitary waste water. Growth Management staff have advised that based on the FSR and other information, these applications are not supportable. The Traffic Impact Study (TIS), prepared by Salvini Consulting Transportation Engineering and Planning, dated September 2021 concludes that the retirement home would represent a reduction in traffic from the current zoning permission on site of about 35 peak hour trips. The mixed use building would increase the traffic from the current zoning permission site by 20 peak hour trips. Transportation Planning do not support either development option and are concerned with the increase in traffic that would result on both Wilson Street East and Rousseaux Street as well as increased traffic infiltration to local roadways.

Views and Vistas

"B.3.3.5 Public views and vistas are significant visual compositions of important public and historic buildings, natural heritage and open space features, landmarks, and skylines which enhance the overall physical character of an area when viewed from the public realm. Vistas are generally panoramic in nature while

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views usually refer to a strong individual feature often framed by its surroundings. Views and vistas created in newly developing areas play a large role in creating a sense of place and neighbourhood identity; and,

Examples of existing significant vistas include the panorama of the Niagara Escarpment, Hamilton Harbour and the Downtown skyline as viewed from various vantage points throughout the City. Examples of views include significant historic and public buildings, natural heritage features, and monuments.”

The Applicant submitted a Visual Impact Assessment (dated September 2021) evaluating the retirement home or mixed use building within the context of the City from specific public viewpoints. 24 public viewpoints were assessed throughout the City, and of the 24 public viewpoints, three viewpoints along Wilson Street East were identified as points where the proposal would be visible. The Niagara Escarpment Commission (NEC) reviewed the Visual Impact Assessment (VIA) and concluded that the VIA is not complete and does not demonstrate that the applicable NEP policies have been satisfied. No visual impact mitigation measures were proposed (such as changes to building height or massing).

Niagara Escarpment Plan

- “C.1.1.1 Any development within the Niagara Escarpment Plan area, as shown on Schedule A – Provincial Plans, shall meet the requirements of this Plan and the Niagara Escarpment Plan and Section 3.3 of the Greenbelt Plan. Where there is discrepancy between this Plan and the Niagara Escarpment Plan, the most restrictive policies will prevail.
- C.1.1.6 To minimize the impact and further encroachments in the Escarpment environment, for those lands located within the Niagara Escarpment Plan area identified on Schedule A - Provincial Plans, the following policies shall apply:
- a) The design of the development shall be compatible with the visual and natural environment; and,
 - b) Setbacks and screening adequate to minimize the visual impact of development on the Escarpment landscape shall be required;”

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The subject lands are not within the Niagara Escarpment Development Control area but are identified within the “Urban Area” of the Niagara Escarpment Plan. The following policy, amongst others, applies to the proposal:

“1.7.5.1 All development shall be of an urban design compatible with the scenic resources of the Escarpment. Where appropriate, provision for maximum heights, adequate setbacks and screening are required to minimize the visual impact of urban development.”

The NEC has reviewed the VIA and have indicated that it has not adequately assessed impacts on key views of concern and require further investigation during leaf off conditions. Based on NEC comments, the proposal does not comply with the Niagara Escarpment plan and therefore does not comply with the UHOP which requires NEP plan conformity.

Natural Heritage

“C.2.11.1 The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests.”

Trees have been identified on the subject property. Staff have reviewed a Tree Protection Plan (TPP), prepared by GSP Group dated September 24, 2021. A total of 104 trees have been inventoried. Of these trees, 85 have been proposed to be removed. The 85 trees proposed for removal are all located on the subject lands, the removal of all the trees on the subject lands suggests that the proposal is an over development, efforts to maintain some of the existing tree canopy, should be considered. At this time the TPP has not been approved because permissions for removal from adjacent property owners, species identification, development within driplines, identification of tree protection fencing, and tree compensation confirmation has not been provided.

In 2019, Hamilton City Council declared a Climate Change Emergency and directed Staff to identify and investigate actions to achieve net-zero carbon emissions by 2050. The trees on the subject lands act as carbon sinks and contribute to reducing the urban heat island effect, to remove all of the existing tree canopy on the subject lands would contradict the City’s efforts to mitigate Climate Change.

Infrastructure and Servicing

“C.5.3.11 The City shall ensure that any change in density can be accommodated within the municipal water and wastewater system.”

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Population projections have not been provided for the proposed developments and there is no information provided in the FSR to demonstrate that the existing downstream sanitary system has sufficient capacity to support the proposed density on the site. Based on the foregoing, Growth Management staff are unable to support the proposed Applications.

Based on the foregoing, the proposal does not meet the intent of the UHOP.

Ancaster Wilson Street Secondary Plan

The Ancaster Wilson Street Secondary Plan (AWSSP) objectives are described in Volume 2, Section B.2.8.5. The Secondary Plan recognizes the historic value of the Ancaster Village Core and encourages development that provides for a range of housing, employment, services, and recreation options in a form that is appropriately integrated with the existing historic buildings and landscapes, and promotes a liveable, walkable community.

The subject lands are designated “Mixed Use - Medium Density” with a “Pedestrian Focus” on Map B.2.8-1 Land Use Plan. The subject lands are also identified as being within the “Community Node Area” and the “Village Core” Character Area; a “Listed Heritage Property”; and a “Potential Gateway Feature” on Appendix A – Character Areas and Heritage Features, of the AWSSP. The following policies, amongst others, apply to the proposal.

“B.2.8.6.1 Ancaster Community Node Policies

In addition to Section E.2.3.3 - Community Nodes of Volume 1, and the policies of this Secondary Plan, the following policies shall apply to the Ancaster Community Node shown on Appendix A - Character Areas and Heritage Features:

- a) The Ancaster Community Node shall be a focus area for growth, development, and intensification within the Ancaster Wilson Street Secondary Plan;
- b) The Ancaster Community Node shall include a range of housing forms and tenures, and a mix of employment, institutional, recreational, and commercial uses subject to the land use designation policies of this Secondary Plan and Volume 1 of this Plan;
- c) Intensification and infill development shall be balanced with the heritage and historic character of Ancaster. Further guidance for incorporating heritage features, design, and overall character through infill and

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intensification is provided in the supporting Ancaster Wilson Street Urban Design Guidelines;

- d) Within the Ancaster Community Node, larger scale development and redevelopment are encouraged to be directed towards the Uptown Core and western portion of the Gateway Residential area, as shown on Appendix A – Character Areas and Heritage Features;
- e) Mixed Use, Commercial, and Institutional development and redevelopment is encouraged within the Village Core area, though the scale of development shall be consistent with the historic character of the area. The scale and design of buildings is detailed in Policy 2.8.12 of this Plan, and the supporting Urban Design Guidelines; and,
- f) Commercial and Mixed Use areas within the Community Node shall provide an important source of employment in the Ancaster Wilson Street Secondary Plan, and shall support the viability of the Ancaster Community Node and meet the daily needs of residents and visitors to Ancaster.

Growth and development are to be focused in the Ancaster Community Node; however, large scale development or redevelopment are to be directed to other districts such as the Gateway Residential area or Uptown Core area. Further direction is provided to ensure that the scale of development is consistent with the Village Core Area and its historic character. The proposal for a seven or six storey building combined with the proposed setbacks meant to maximize the building envelope is not consistent with the Ancaster Village Core which promotes low rise built form with more spacing in between buildings.

“2.8.8.4 Mixed Use - Medium Density Designation

In addition to the policies of Section E.4.6 – Mixed Use – Medium Density Designation of Volume 1, for lands designated Mixed Use – Medium Density on Map B.2.8-1 – Ancaster Wilson Street Secondary Plan: Land Use Plan, the following policies shall apply:

- a) There shall be two primary commercial areas in the Ancaster Wilson Street Secondary Plan and Community Node which function as community focal points: the Village Core area and the Uptown Core area, as shown on Appendix A – Character Areas and Heritage Features. Retail uses shall be directed to these two primary Mixed Use areas; and,

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- c) Notwithstanding Policies E.4.6.7 and E.4.6.8 of Volume 1, a minimum building height of two storeys and a maximum height of three storeys shall be permitted;

Village Core Area

- g) The Village Core area, shown on Appendix A – Character Areas and Heritage Features, shall primarily consist of service and retail uses, as well as residential uses. The Village Core area shall serve the daily retail, commercial, and personal service needs for the Ancaster Community;
- h) Commercial facilities to be encouraged within the Village Core area may include retail stores, service commercial uses, banks, restaurants with sit-down service, and offices. The lands to be used for commercial purposes shall be those lands that front onto Wilson Street; and,
- i) The design of buildings and lands located in the Village Core area, shown on Appendix A – Character Areas and Heritage Features, are detailed in Policy 2.8.12.1 and are further described in the supporting Ancaster Wilson Street Secondary Plan Urban Design Guidelines;

2.8.8.5 Pedestrian Focus Streets (OPA 69)

A portion of the lands designated Mixed Use – Medium Density within the Village Core area are also identified as *Pedestrian Focus Streets* on Map B.2.8-1 – Ancaster Wilson Street Secondary Plan: Land Use Plan. In addition to the Policy E.4.3 – Pedestrian Focus Streets of Volume 1, the following policies shall apply:

- a) Notwithstanding Policy 2.8.8.4 c), building height shall not exceed 2.5 storeys on *Pedestrian Focus Streets*;
- c) Notwithstanding Policy E.4.3.4 b) of Volume 1, building setbacks may vary along Wilson Street, and parking, driveways, or lands shall be discouraged from being located between the buildings and the street;
- d) New development shall respect and reflect the existing heritage character of the Village Core, and shall be in accordance with Section B.3.4 – Cultural Heritage Resource Policies, in Volume 1 and Sections 2.8.12 and 2.8.13 of this Plan;

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- e) Private and public parking areas are permitted on lands designated Mixed Use – Medium Density, and identified as Pedestrian Focus Streets, subject to the following:
 - i) Parking areas shall be buffered from the street through the use of building placement or enhanced landscaping;
 - ii) The location of parking areas shall not negatively affect the pedestrian environment or access to buildings; and,
 - iii) Private and public parking areas are encouraged to provide for shared parking for several uses within the Village Core.”

The Secondary Plan permits buildings with a maximum height of two and a half storeys on Pedestrian Focus Streets. The proposed development does not comply with the Secondary Plan as the proposed building height will be six or seven storeys. As noted in the UHOP analysis above, Policy E.4.6.5 of Volume 1 establishes permitted uses. The Secondary Plan does not add or specify further permitted uses within “Mixed Use – Medium Density” designation therefore the parent Policy E.4.6.5 in Volume 1 is applicable. This policy permits a multiple dwelling; however, a retirement home is not permitted. Therefore, an amendment to the UHOP and Secondary Plan to recognize an added use for a retirement home and to permit a height of six or seven storeys is required.

The retirement home proposes one level of underground parking with 74 parking spaces inclusive of barrier free parking spaces and the mixed use building proposes two levels of underground parking with a total of 133 parking spaces. The underground parking would be accessed from Rousseaux Street and the design supports and enhances the pedestrian environment along Wilson Street East.

The retirement home option includes four commercial units with a total of 263 square metres of commercial space. Two commercial units are proposed at ground level near the northwest corner of the proposed development (closer to the intersection of Wilson Street East and Rousseaux Street), with sizes of 50 square metres and 91 square metres. Two additional commercial units with sizes of 74 square metres and 48 square metres are proposed within the retained buildings at 442 and 450 Wilson Street East, respectively.

The mixed use building includes seven commercial units with a total of 836 square metres of commercial space. Four commercial units are proposed at ground level near the intersection of Wilson Street East and Rousseaux Street, with sizes of 67 square metres, 97 square metres, 109 square metres and 152 square metres. One commercial unit of 289 square metres is proposed on the second floor midway along the property

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line on Wilson Street East and would have access from Wilson Street East. Similarly to the retirement home, the mixed use building would retain the buildings at 442 and 450 Wilson Street East for commercial space totalling 74 square metres and 48 square metres, respectively. The commercial uses would provide day-to-day services for the residents of the retirement home/mixed use building and serve the surrounding area.

Along Wilson Street East the retirement home/mixed use building propose a minimum setback of 1.012 metres intended to match the setback of the retained buildings at 442 and 450 Wilson Street East. The proposed minimum setback from Rousseaux Street for both the retirement home/mixed use building would be less than one metre in some pinch points. None of the properties along Rousseaux Street have similar setbacks to what is being proposed.

The proposal includes a minimum side yard and rear yard of 2.5 metres, whereas 7.5 metres is typically required for both side and rear yards. In the context of Ancaster and its Village Core, the setbacks and smaller buildings are viewed as a unique characteristic. The proposal provides a three to four storey podium along Wilson Street East which is also out of character in comparison to the other properties found along Wilson Street East that are predominantly made up of one and a half to two and a half storeys.

“2.8.12.1 Urban Design Policies

In addition to Section B.3.3 - Urban Design Policies of Volume 1, the following policies shall apply to lands within the Ancaster Wilson Street Secondary Plan and Community Node areas, as identified on Map B.2.8-1 Ancaster Wilson Street Secondary Plan: Land Use and Appendix A - Character Areas and Heritage Features:

- a) Development and redevelopment shall be consistent with the Ancaster Wilson Street Secondary Plan Urban Design Guidelines, and shall be sympathetic to adjacent building styles, features, and materials when adjacent to a designated or listed heritage building;
- c) For the purposes of maintaining community character and cohesive design, five Character Areas have been identified, as shown on Appendix A - Character Areas and Heritage Features. The five Character Areas shall include:
 - ii) Village Core, located from Rousseaux Street to Dalley Drive, which is the traditional downtown of Ancaster consisting of retail, commercial, and mixed residential uses;

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- d) The Ancaster Wilson Street Secondary Plan Urban Design Guidelines further describe the design objectives, function, and design character of each Character Area;
- e) New development or redevelopment shall complement the distinct character, design, style, building materials, and characteristics, which define each Character Area;
- f) Design requirements shall only apply to commercial and mixed use areas, institutional, and multi-residential developments. The Guidelines shall not apply to single detached and semi-detached dwellings;
- h) Development and redevelopment shall foster streets as interactive outdoor spaces for pedestrians;
- i) Mixed use and commercial development or redevelopment shall provide a buffer, such as landscaped areas, for adjacent sensitive land uses; and,
- j) Two primary commercial mixed use areas have been identified within the Ancaster Wilson Street Secondary Plan and are part of the Community Node: the Uptown Core and Village Core, as shown on Appendix A -Character Areas and Heritage Features. The following policies shall apply to the Uptown Core and Village Core:
 - ii) The Village Core area, shown on Appendix A - Character Areas and Heritage Features, shall be consistent with the following design considerations:
 1. Notwithstanding Policy E.4.3.4 b) of Volume 1, for buildings fronting onto Wilson Street, setbacks may be varied, as per the character of the Village Core area;
 2. Buildings within the Village Core should incorporate historical building features and styles in order to encourage a village atmosphere and pleasant pedestrian experience, where feasible;
 3. Additional considerations to encourage the historic characteristics of the Village Core, including heritage styled signage and building façades, as described in the Urban Design Guidelines, should be given for any development or redevelopment;

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4. The Village Core area should express a strong heritage design character that invites pedestrians and encourages interaction; and,
5. The heritage characteristic of the Village Core area can be strengthened through the use of a public walkway linking buildings and other land uses;

2.8.12.2 Gateways

In addition to Section B.3.3.4 - Gateways of Volume 1, the following policies shall apply to Gateways in the Ancaster Wilson Street Secondary Plan:

- a) The Ancaster Wilson Street Secondary Plan Urban Design Guidelines have identified the following gateways, shown on Appendix A: Character Areas and Heritage Features, in the following general areas:
 - iii) Rousseaux Street and Wilson Street;
- b) Gateways may take the form of a structure and/or sign or a landscaped area or laneway. Gateway type and design shall vary based on Character Area and function. Gateway design and features shall be completed, to the satisfaction of the City.”

In response to the Urban Design Policies for the AWSSP, the proposed features and materials are consistent with other buildings in the Ancaster Village Core area. However, at six or seven storeys in height, the proposed building is not sympathetic to adjacent low rise building forms and is not consistent with the Secondary Plan in terms of height, massing and character, as prescribed by the applicable secondary plan policies.

The proposal applies a 2.5 to 6 metre setback to the property to the east and a 1.5 metre setback to the property to the south. The setbacks and angular plane along the eastern property line should be achieved to mitigate overlook and privacy concerns. An increase in setback would also provide an opportunity for increased landscaping and buffering from the adjacent properties.

“2.8.13.1 Cultural Heritage Policies

The following policies shall apply to the cultural heritage resources within the Ancaster Wilson Street Secondary Plan:

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- a) Due to the important heritage and character considerations within the Ancaster Wilson Street Secondary Plan, in addition to Section B.3.4 - Cultural Heritage Resources Policies of Volume 1, the evaluation of new development or redevelopment Applications in the Ancaster Wilson Street Secondary Plan shall emphasize the requirements of the Cultural Heritage Resources Policies of Volume 1;
- b) The retention and conservation of historical buildings, structures, or features on their original sites shall be encouraged through:
 - i) Adaptive re-use and preservation of existing buildings before new development or redevelopment is considered;
 - ii) Maintaining a listing of historical designated and listed properties of interest. Historic buildings are shown on Appendix A - Character Areas and Heritage Features; and,
 - iii) Integrating cultural heritage resources into new development or redevelopment proposals in their original use or an appropriate adaptive reuse where possible;
- c) When development or redevelopment is proposed adjacent to existing designated or listed heritage buildings, as shown on Appendix A - Character Areas and Heritage Features, a Planning Justification Report shall detail how the proposed development or redevelopment is consistent with the character and style of the surrounding heritage buildings;
- d) The tree lined streetscape of portions of the Ancaster Wilson Street Secondary Plan shall be maintained and protected, where feasible, to enhance and preserve the character of the street and surrounding neighbourhood area; and,
- e) Cultural Heritage Landscapes shall be conserved and protected with the intent of retaining major characteristics. This shall be implemented by the review of planning Applications under the *Planning Act*, R.S.O., 1990 c. P.13. The City shall ensure that any proposed change is consistent within the policies of the Secondary Plan. The Village Core, as shown on Appendix A - Character Areas and Heritage Features and in the supporting Urban Design Guidelines, has been identified as a Cultural Heritage Landscape.”

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The Applicant has submitted a Cultural Heritage Impact Assessment. The proposal is to maintain 442 Wilson Street East and adaptively re-use it as part of the development. 450 Wilson Street East is also proposed to be re-used. The single detached dwelling at 454 Wilson Street East is proposed to be demolished. With respect to the Brandon House property (462 Wilson Street East), which was previously demolished, the proposal will make use of stones that were used for wall cladding and from the demolition of the retaining wall, and a commemorative feature is also proposed to be located in the amenity space. Staff require additional information and other details regarding each of these buildings to determine how they will contribute to the cultural heritage and the Ancaster community. If approved, a Holding Provision will be applied to require the Applicants to provide an updated Cultural Heritage Impact Study.

Based on the foregoing, the proposal does not comply with the Ancaster Wilson Street Secondary Plan.

City of Hamilton Zoning Bylaw No. 05-200

The subject property is currently zoned Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone, in City of Hamilton Zoning By-law No. 05-200, as shown on Appendix “A” attached to Report PED22037. The Applicant is proposing further modifications to the Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone to:

- Permit the use of a retirement home;
- Increase the maximum front yard setback;
- Increase the maximum building height;
- Increase the maximum first storey height;
- Decrease the minimum rear yard;
- Decrease the minimum side yard abutting a residential zone; and,
- Decrease the amount of windows and doors for a ground floor façade.

The proposed modifications to the Zone are discussed in greater detail in the Analysis and Rationale section of this Report.

Relevant Consultation

Departments and Agencies	
<ul style="list-style-type: none"> • Public Health Services, Healthy Environments Division, Healthy and Safe Communities Department; • Recreation Division, Healthy and Safe Communities Department; • Transit Planning and Infrastructure, Transit Operations Division, Public Works Department; and, • Horizon / Alectra Utilities. 	No Comment

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Departments and Agencies		
	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	<ul style="list-style-type: none"> • The FSR is to include the proposed population density; • Per our GIS records, there is no 300mm storm sewer along Rousseaux Street as is noted in the FSR. The existing storm structures are only intended for road side drainage and have likely now been assumed by the City for municipal connection. As such, this outlet is not acceptable; • The Applicant is to demonstrate an alternative storm sewer outlet for the site; • The fire flow section has only been presented for the retirement building proposal. Include mention of the alternate proposal in FSR; • There is no downstream analysis provided for the proposed sanitary design flows for us to review the impact of the proposed density if it is higher than prescribed; and, • A hydrogeological study is required to determine potential dewatering needs. Due to the limited capacity in the sanitary sewer system, no long term dewatering post-construction would be supported by Hamilton Water. Foundation design should be designed accordingly. 	<ul style="list-style-type: none"> • Staff do not support the proposed density for reasons including but not limited to lack of sanitary capacity; • Should the Applications be approved, a Holding Provision should be applied to the amending Zoning By-law requiring the Applicant to demonstrate adequate sanitary capacity downstream; and, • Should the Applications be approved, the hydrogeological and drainage concerns will be addressed at the Site Plan Control stage. Water demand and fire flow calculations shall also be updated, as necessary, and resubmitted at that stage.

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	• Comment	• Staff Response
Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department	<ul style="list-style-type: none"> • Transportation Planning do not support the development of either option; • Transportation Planning is concerned about the overall impact this proposal will have on the Ancaster Village Core area, including an increase in traffic volumes both on Arterial Roadways that are already approaching capacity during peak hours as well as increased traffic infiltration on local roadways; • In order to protect the existing and future pedestrian realm, cycling infrastructure and road network the following shall be required: <ul style="list-style-type: none"> ○ Right-of-Way dedications; ○ Daylighting triangles at Wilson Street East and Rousseaux Street; ○ Revisions to the TIS; and, ○ Traffic calming funds; • The Applicant has prepared a functional left-turn lane design on Rousseaux Street which has been reviewed by Transportation Planning and the Transportation Engineering section of the Transportation Operations and Maintenance Division. 	<ul style="list-style-type: none"> • Should the Applications be approved, the Right-of-Way dedications, daylighting triangles, a revised TIS and traffic calming funds will be addressed at the Site Plan Control stage.

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	Comment	Staff Response
Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department Continued	<ul style="list-style-type: none"> It is anticipated that finding a gap to turn left into the site from Rousseaux Street could be challenging given the peak hour volume of eastbound traffic on Rousseaux Street, paired with the close spacing to the intersection, and the traffic signal phasing that displays a right-turn overlap arrow simultaneously during the westbound green indication for Rousseaux Street. As such the design cannot be supported as shown since the existing left-turning volume exceeds the available storage length, and the addition of additional left-turns will increase the queuing and add additional delay if site destined motorists are waiting for gaps in opposing traffic. 	
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	<ul style="list-style-type: none"> Approve the Tree Management Plan; and, Supports the Landscape Plan although additional trees are likely required on Rousseaux Street and further detail is required for street tree spacing and location on Wilson Street East. 	<ul style="list-style-type: none"> Should the Applications be approved, these concerns will be addressed at the Site Plan Control stage.
Growth Planning Section, Growth Management Division, Planning and Economic Development Department	<ul style="list-style-type: none"> Determine if the tenure for the proposal will be a Condominium; Determine if the proposed development will be encroaching into the municipal right-of-way; and, The owner/agent will be notified of the proposed addressing for this development once conditional Site Plan approval has been granted. 	<ul style="list-style-type: none"> Should the Applications be approved, these concerns will be addressed at the Site Plan Control stages and the Draft Plan of Condominium, if condominium tenure is considered.

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	Comment	Staff Response
Landscape Architectural Services, Strategic Planning Division, Public Works Department	<ul style="list-style-type: none"> Request cash-in-lieu of parkland dedication. Outdoor amenity space will not count toward parkland dedication. 	<ul style="list-style-type: none"> Should the Applications be approved, these concerns will be addressed at the Site Plan Control stage.
Asset Management, Strategic Planning Division, Public Works Department	<ul style="list-style-type: none"> No concern. This Application is in the vicinity of the 2022 Capital road resurfacing project of Wilson St, Rousseaux to Filman Road. 	<ul style="list-style-type: none"> Noted.
Construction, Strategic Planning Division, Public Works Department	<ul style="list-style-type: none"> Please refer to Asset Management comment regarding resurfacing project. 	<ul style="list-style-type: none"> Noted.
Recycling and Waste Disposal Section, Environmental Services Division, Public Works Department	<ul style="list-style-type: none"> This development is ineligible for municipal waste collection service if the proposal is an institutional facility such as a retirement home; and, The development may be eligible for municipal waste collection if the proposed use is a mixed-use multi-residential building and if the proposal satisfies the City's design criteria for waste collection. 	<ul style="list-style-type: none"> Should the Applications be approved, these concerns will be addressed at the Site Plan Control stage.
Hamilton Conservation Authority (HCA)	<ul style="list-style-type: none"> HCA does not have any flood or erosion hazards concerns for the subject properties but note a permit will be required for the development; and, In reviewing the FSR submitted (S. Llewellyn & Assoc. Ltd., August 2021), HCA suggests further work is required to demonstrate the site can be developed and serviced to meet Level 1 (Enhanced) stormwater quality standards. 	<ul style="list-style-type: none"> Should the Applications be approved, the FSR concerns will be addressed at the Site Plan Control stage.

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	Comment	Staff Response
Niagara Escarpment Commission (NEC)	<ul style="list-style-type: none"> • Provided a review of the Visual Impact Assessment; • The VIA is not complete and does not demonstrate that the applicable NEP policies have been satisfied; and, • No visual impact mitigation measures were proposed (such as changes to building height or massing). 	<ul style="list-style-type: none"> • The Applicant submitted a Visual Impact Assessment (dated September 2021) evaluating the retirement home or mixed use building within the context of the City from specific public viewpoints; • No mitigation measures were proposed such as reduction in height or reduced massing; and, • Do not support the Applications and Visual Impact Assessment as submitted.
Public Consultation		
	Comment	Staff Response
Existing Neighbourhood Character, Heritage, Density and Built Form (Height and Massing), Shadowing,	<ul style="list-style-type: none"> • The area is viewed as a historic area that needs to be preserved; • The six or seven storeys would be out of character for Ancaster, which is characterized by low rise buildings; • The building will take away from the sunlight on both Wilson and Rousseaux Street; and, • The building is massive in comparison to the surrounding buildings. 	<ul style="list-style-type: none"> • Staff do not support the proposed density, building height and massing.

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	Comment	Staff Response
Traffic, Parking and Noise	<ul style="list-style-type: none"> Proposed development will cause an increase in traffic, adding to already heavy traffic along the Rousseaux Street and Wilson Street East; There is not enough parking to accommodate the residents of either the retirement home or mixed use building; There is concern that the additional traffic will be directed to Lodor and Academy Streets; and, Concern that additional traffic will add to noise on the through streets such as Lodor and Academy. 	<ul style="list-style-type: none"> A Traffic Impact Study (TIS) was prepared by Salvini Consulting Transportation Engineering and Planning, dated September 2021; The TIS concludes that the retirement home would represent a reduction in traffic from the current zoning permission on site of about 35 peak hour trips; and, The mixed use building would increase the traffic from the current zoning permission site by 20 peak hour trips.
Revenue Generated from Development	<ul style="list-style-type: none"> Sentiment that the City is driven by revenues generated by the proposed development. 	<ul style="list-style-type: none"> All planning Applications are considered on their own merits against all relevant provincial and local planning policies.
Demolition of the Brandon House	<ul style="list-style-type: none"> Concern regarding the Brandon House demolition process. 	<ul style="list-style-type: none"> At the time, the Brandon house was listed on the Inventory but did not have any formal status or protection from demolition under the <i>Ontario Heritage Act</i>; and, The Applicant has indicated that a commemorative feature will be provided for the Brandon House.

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

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SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 34 of 37

	Comment	Staff Response
Noise	<ul style="list-style-type: none"> Concern that mechanical units will have an impact on Noise. 	<ul style="list-style-type: none"> As part of the Site Plan Control process further investigation will be required for noise from mechanical units.
Trees	<ul style="list-style-type: none"> Concerns regarding the loss of canopy cover on this property and concern that all trees are being removed. 	<ul style="list-style-type: none"> Staff have reviewed the TPP and are not satisfied; Should the Applications be approved compensation will need to be provided in the form of replanting or cash in lieu; and, Replanting and cash-in-lieu will be further addressed through Site Plan Control.
Sanitary Capacity	<ul style="list-style-type: none"> Concern if the existing pumping station can support the additional effluent from either development. 	<ul style="list-style-type: none"> Staff do not support the proposed density for reasons including but not limited to sanitary capacity; and, Should the Applications be approved, a Holding provision should be applied to the amending Zoning By-law requiring the Applicant to demonstrate adequate sanitary capacity downstream.

Public Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 54 property owners within 120 m of the subject lands on December 2, 2021.

Notice of the Public Meeting was sent to 54 property owners within 120 m of the subject lands. Statutory notice was given by way of a newspaper ad published in The Hamilton Spectator on January 27, 2022, in accordance with the requirements of the *Planning Act*.

Public Consultation Strategy

Pursuant to the City's Public Consultation Strategy Guidelines, the Applicant prepared a Public Consultation Strategy. An initial meeting occurred on April 6, 2021 to obtain

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SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 35 of 37

community input on the initial design, and due to COVID-19 this was a virtual meeting. The Applicants also attended a virtual meeting of the Ancaster Village BIA on April 19, 2021. The Applicants also hosted a micro-site during the consultation session for the public to view the submitted materials.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Official Plan and Zoning By-law amendments cannot be supported for the following reasons:
 - i) The proposed amendments do not meet the general intent of the Urban Hamilton Official Plan and Ancaster Wilson Street Secondary Plan with respect to building height, residential density, massing, privacy, overlook, setbacks, and compatibility with the existing neighbourhood.

2. As discussed in the Official Plan and Secondary Plan analyses sections of this report, staff are not in support of the proposal for the following reasons:
 - i) Modifications to Development Standards and Regulations

Staff do not support the proposed Amendment to the Urban Hamilton Official Plan (UHOP) as the proposal does not meet the intensification and compatibility policies of the UHOP. While the UHOP focuses intensification to “Community Nodes”, it also requires that infill development enhance and be compatible with the scale and character of the existing neighbourhood in terms of matters such as privacy, overlook, built form, density, height, scale, and massing;

Requested amendments include an increase in maximum building height from 9 metres and two and a half storeys to 24 metres and seven storeys, maximum residential density from 200 to 283 dwelling units per hectare, minimum rear yard from 7.5 metres to 1.5 metres, and minimum side yard from 7.5 metres to between 2.5 metres and 6 metres; and,

The cumulative effect of these modifications would result in an overdevelopment of the site.

SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 36 of 37

ii) Compatibility with Character of Existing Neighbourhood

The Urban Hamilton Official Plan and Ancaster Wilson Street Secondary Plan require that intensification and infill development shall be balanced with the heritage and historic character of Ancaster. To the north of the site across from Rousseaux Street are single detached dwellings. Immediately east is a single detached dwelling, to the south are low rise commercial buildings, and to the west is a commercial building, single detached dwelling and an institutional property. The surroundings are of a scale representative of low density typology and are representative of Ancaster's downtown historic development pattern of low profile buildings with spacing in between;

To locate a six or seven storey building with a high density immediately adjacent to low density, low profile buildings within the Village Core would not ensure compatibility with, nor complement, the Village Core character. There are also privacy and overlook concerns to the property to the east. Further, the height and density being proposed was not contemplated for this area through the AWSSP and is not compatible with the surrounding area; and,

Staff do not support the proposed Amendment to the UHOP as it is contrary to the overall vision, planning principles and policies for the area. Based on the rationale above, staff recommend that the Applications be denied.

iii) Servicing Constraints

Growth Management staff have reviewed the Functional Servicing Report prepared by S.Llewellyn & Associated Limited (dated August 2021). Staff indicated that they are not able to support the Applications until the Applicant provide population projections for the proposal. The site falls within the tributary area of the sanitary sewer along Wilson Street East which is designed for a population density of 125 ppha. The servicing plans indicate a connection of the sanitary service line to Rousseaux Street, it is noted that the site does not fall tributary to this sewer, and the population density of the Rousseaux Street sewer has an even more limited capacity of 60 ppha;

Transportation Planning is concerned about the overall impact this proposal will have on the Ancaster Village Core area, including an increase in traffic volumes both on Arterial Roadways that are already approaching capacity during peak hours as well as increased traffic infiltration on Local roadways.

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SUBJECT: Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East (Ancaster) (PED22037) (Ward 12) – Page 37 of 37

ALTERNATIVES FOR CONSIDERATION

- 1) Should the Applications be approved, that staff be directed to prepare the Official Plan Amendment and amending Zoning By-law consistent with the concept plans proposed, with the inclusion of Holding Provision(s) to address matters, including addressing sanitary sewer system capacity constraints, visual impacts, and any other necessary agreements to implement Council's direction;
- 2) Council could direct staff to negotiate revisions to the proposal with the Applicant in response to the issues and concerns identified in this Report and report back to Council on the results of the discussion; and,
- 3) Should the Applications be denied, the lands could be developed in accordance with the Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone which permits a building with a height of 9 metres.

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.

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

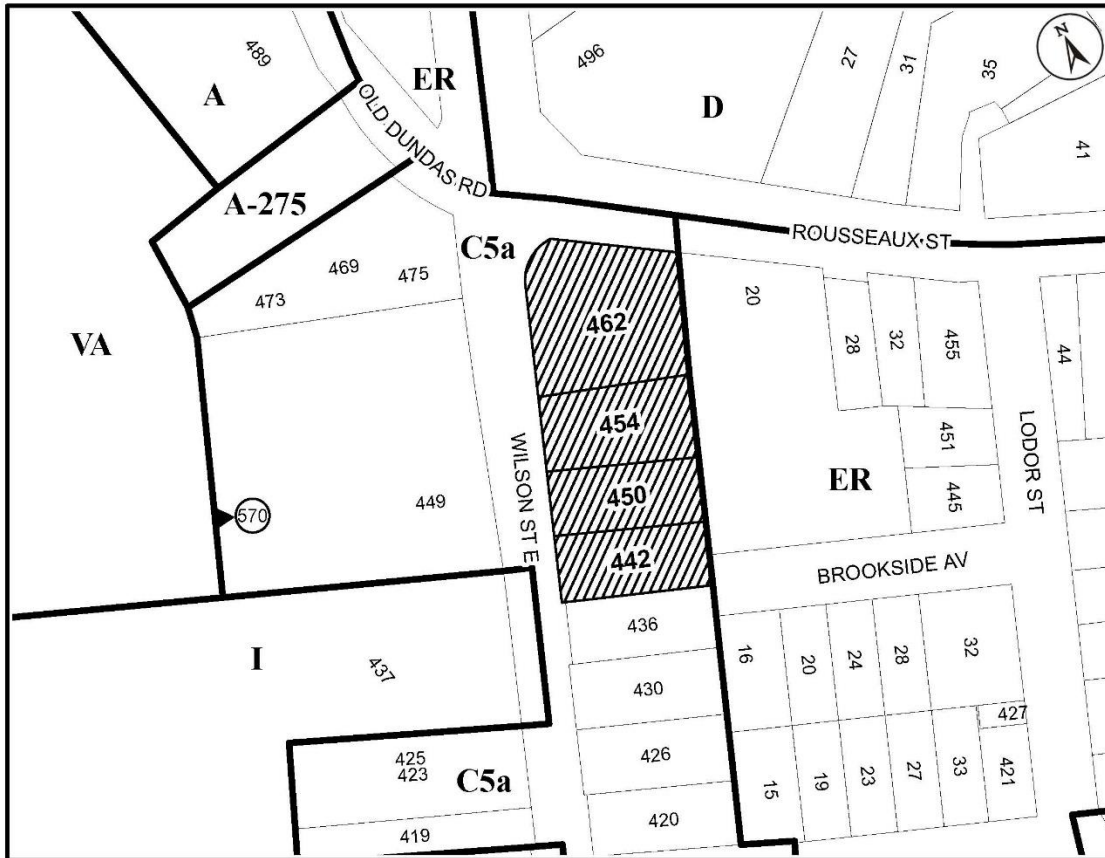
Hamiltonians have a high level of trust and confidence in their City government.


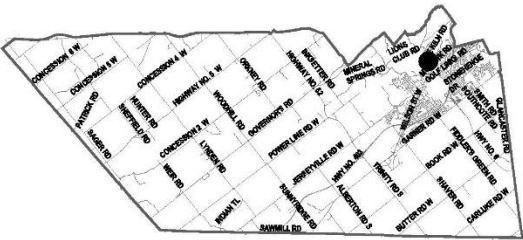

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A" – Location Map
- Appendix "B" – Concept Plans
- Appendix "C" – Public Submissions



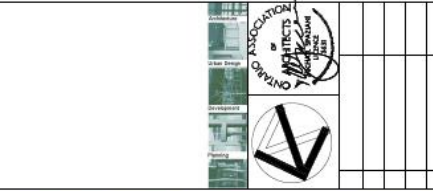

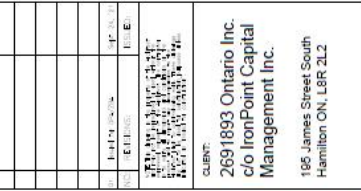
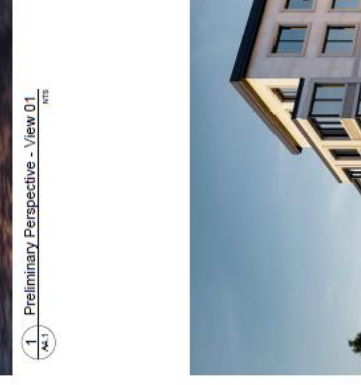
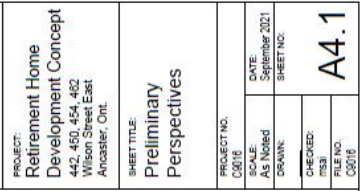
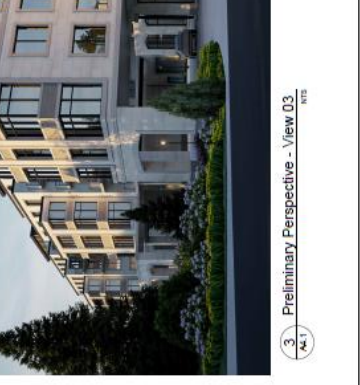


























JVR:sd

Appendix "A" to Report PED22037
Page 1 of 1



<p>● Site Location</p>	<h2 style="text-align: center;">Location Map</h2> <p style="text-align: center;">PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>		 Hamilton
	File Name/Number: ZAC-21-049 & UHOPA-21-023	Date: November 24, 2021	
	Appendix "A"	Scale: N.T.S.	Planner/Technician: JV/AL
<p>Subject Property</p> <p>442, 450, 454 & 462 Wilson Street East</p> <p> Change in Zoning from Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone to the Mixed Use Medium Density - Pedestrian Focus (C5a, __) Zone</p>			

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MSAI <small>MISSISSAUGA ARCHITECTURAL INC.</small> <small>MISSISSAUGA, ONTARIO L4X 1L5</small> <small>PHONE: (905) 875-1888</small>	 												
						<p>2 Preliminary Perspective - View 02 WTS</p>							
													
						<p>3 Preliminary Perspective - View 01 WTS</p>							
													
						<p>4 Preliminary Perspective - View 04 WTS</p>							
													
MSAI <small>MISSISSAUGA ARCHITECTURAL INC.</small> <small>MISSISSAUGA, ONTARIO L4X 1L5</small> <small>PHONE: (905) 875-1888</small>		 											
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MSAI <small>MISSISSAUGA ARCHITECTURAL INC.</small> <small>MISSISSAUGA, ONTARIO L4X 1L5</small> <small>PHONE: (905) 875-1888</small>		 								</			

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MSAI
MUNICIPAL SERVICES ASSOCIATION OF ONTARIO
1000 SHEPPARD AVENUE EAST, SUITE 100
SCARBOROUGH, ONTARIO M1S 1T2
TEL: (416) 291-1234 FAX: (416) 291-1235



CLIENT:
269 1893 Ontario Inc.
c/o IronPoint Capital
Management Inc.
166 James Street South
Hamilton ON, L8R 2L2

PROJECT:
Retirement Home
Development Concept
442, 450, 454, 462
Wilson Street East
Ancaster, Ont.

SHEET TITLE:
Preliminary
Elevations

PROJECT NO.:
02016

SCALE:
As Noted

DATE:
September 2021

DRAWN:
[Name]

CHECKED:
[Name]

FILE NO.:
02016

SHEET NO.:
A2.2

DATE:
September 2021

SCALE:
As Noted

DRAWN:
[Name]

CHECKED:
[Name]

FILE NO.:
02016

SHEET NO.:
A2.2

DATE:
September 2021

SCALE:
As Noted

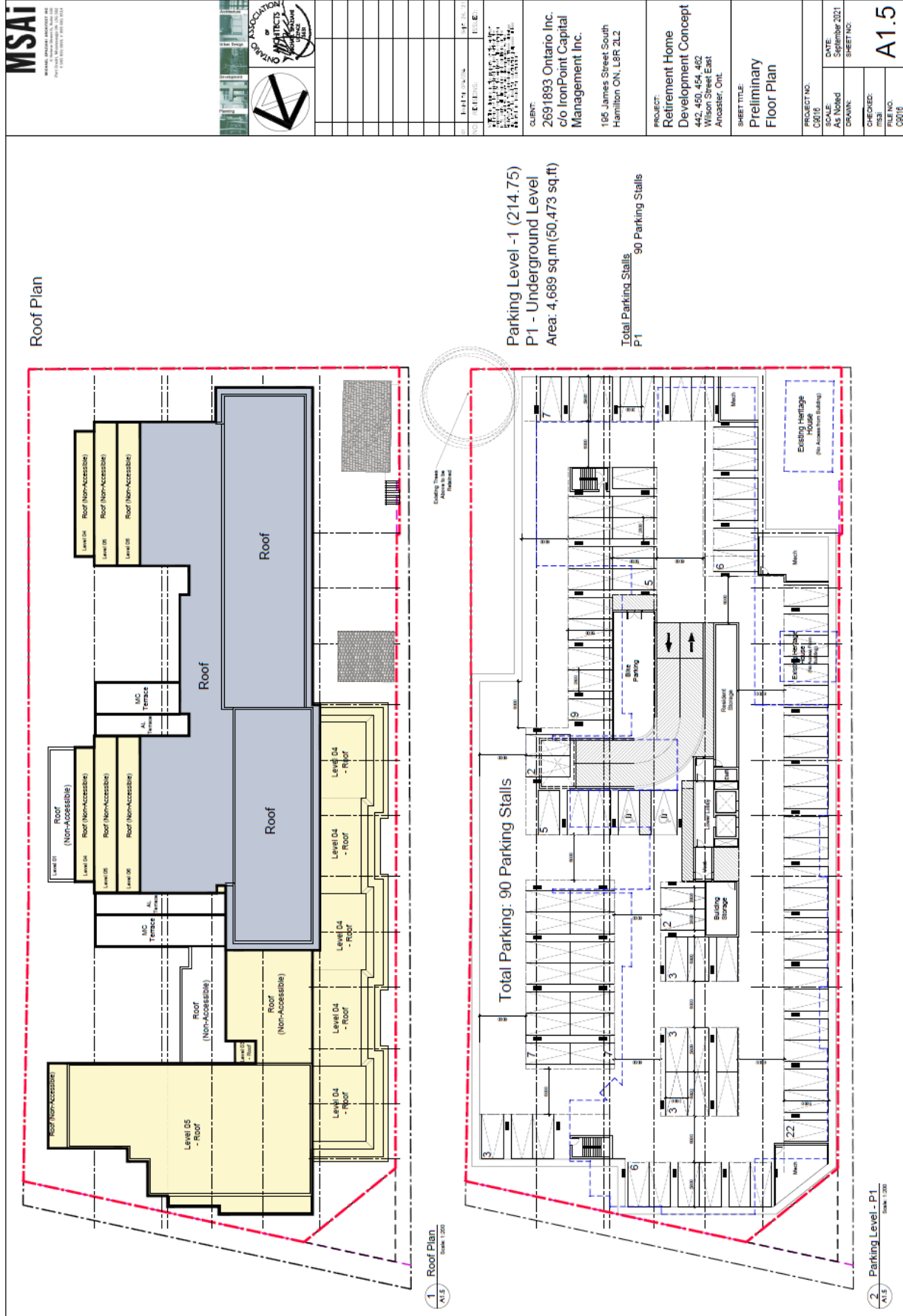
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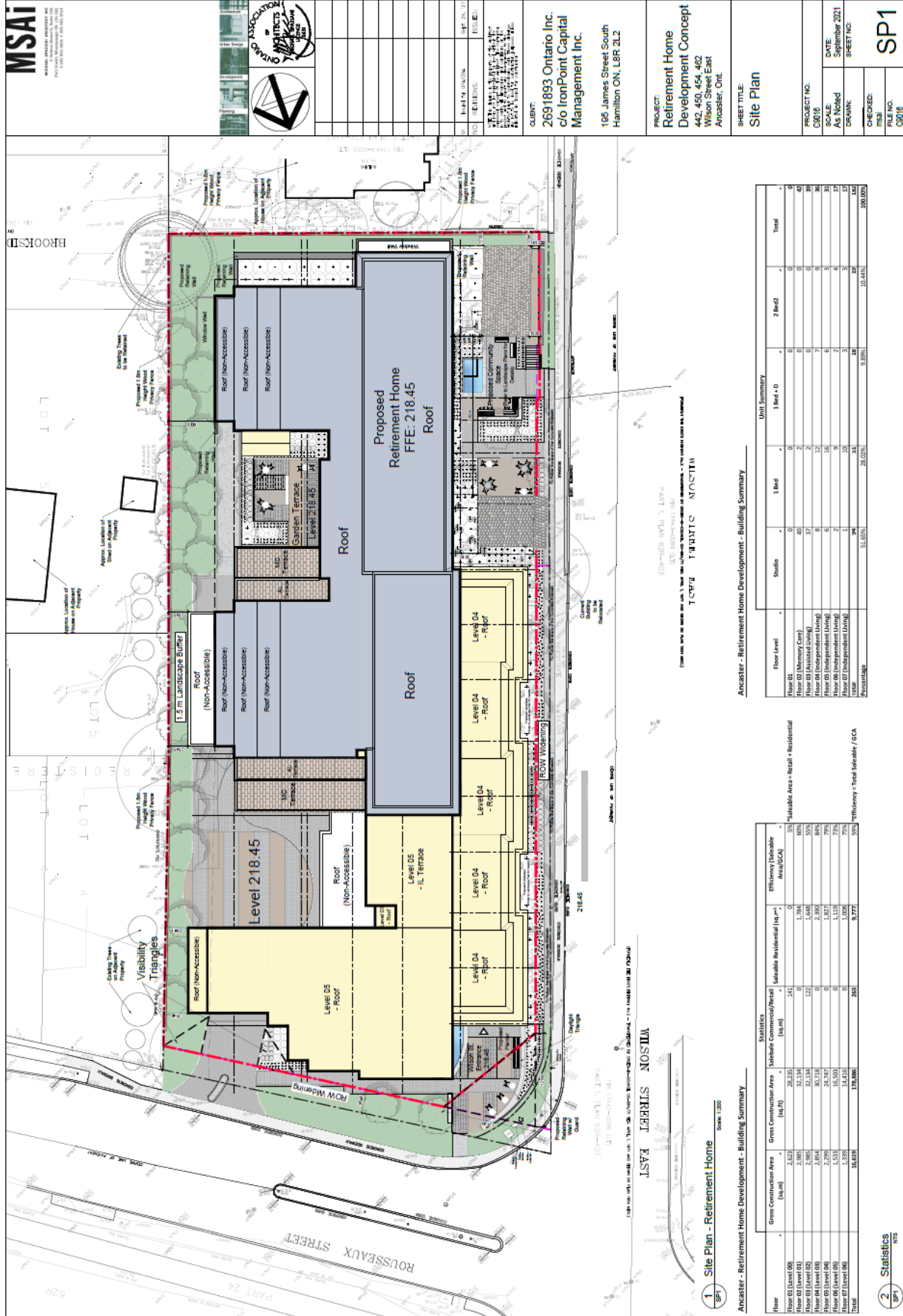
FILE NO.:
02016

SHEET NO.:
A2.2

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MUNICIPAL SERVICES ASSOCIATION OF ONTARIO
1000 SHEPPARD AVENUE EAST, SUITE 100
SCARBOROUGH, ONTARIO M1S 1T5
TEL: (416) 291-1000 FAX: (416) 291-1001

ONTARIO ASSOCIATION OF MUNICIPAL ENGINEERS
1000 SHEPPARD AVENUE EAST, SUITE 100
SCARBOROUGH, ONTARIO M1S 1T5
TEL: (416) 291-1000 FAX: (416) 291-1001

NO.	DATE	DESCRIPTION	BY	CHKD.
1	2021.09.17	ISSUED FOR PERMIT	MSAI	MSAI
2	2021.09.17	ISSUED FOR PERMIT	MSAI	MSAI

CLIENT:
2691893 Ontario Inc.
c/o IronPoint Capital
Management Inc.
166 James Street South
Hamilton ON, L8R 2L2

PROJECT:
Retirement Home
Development Concept
442, 450, 454, 462
Wilson Street East
Ancaster, Ont.

SHEET TITLE:
Site Plan

PROJECT NO.	DATE	DRAWN	CHECKED
001	September 2021	AS NOTED	MSAI
SHEET NO.	SP1		

Unit Summary

Floor Level	Studio	1 Bed	2 Bed	Total
Floor D3 (Memory Care)	0	0	0	0
Floor D3 (Assisted Living)	40	2	0	42
Floor D4 (Independent Living)	37	0	0	37
Floor D5 (Independent Living)	16	0	0	16
Floor D6 (Independent Living)	2	0	0	2
Floor D7 (Independent Living)	1	0	0	1
Total	96	2	0	98
Percentage	97.32%	2.02%	0.66%	100.00%

Statistics

Floor	Gross Construction Area (sq.m)	Sealable Commercial/Residential (sq.m)	Suitable Residential (sq.m)	Efficiency (Sealable Area/GCA)
Floor D3 (Level D3)	2,620	0	0	0%
Floor D3 (Level D3)	2,695	32,134	1,794	6%
Floor D3 (Level D3)	2,695	32,134	1,794	6%
Floor D4 (Level D4)	2,296	0	1,458	55%
Floor D5 (Level D5)	1,533	0	1,827	79%
Floor D6 (Level D6)	1,339	0	1,159	79%
Floor D7 (Level D7)	1,339	0	1,099	79%
Total	14,834	32,134	9,274	62%

1 Site Plan - Retirement Home
Scale: 1:200

2 Statistics

Ancaster - Retirement Home Development - Building Summary

Ancaster - Retirement Home Development - Building Summary

EAST LORIS AVENUE

LEEMIS MONSIEUR

ROUSSEAU STREET

218.45

1.5m Landscape Buffer (Non-Accessible)

Roof (Non-Accessible)

Proposed Retirement Home FFE: 218.45 Roof

Level D5 - IL Terrace

Level D4 - Roof

Level D4 - Roof

Level D4 - Roof

Level D4 - Roof

Level D4 - Roof

Level D4 - Roof

Level D4 - Roof

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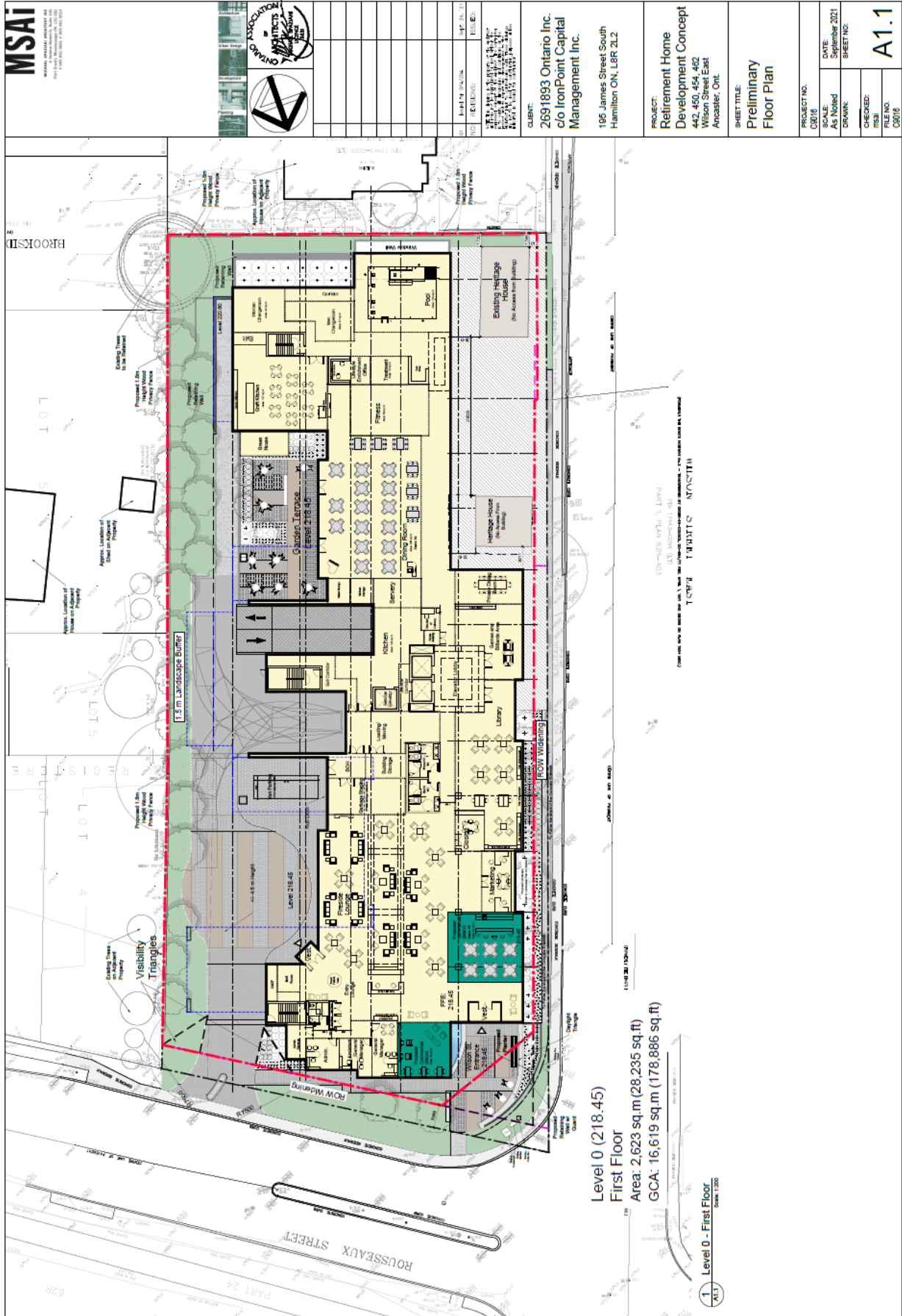
Level D4 - Roof

Level D4 - Roof

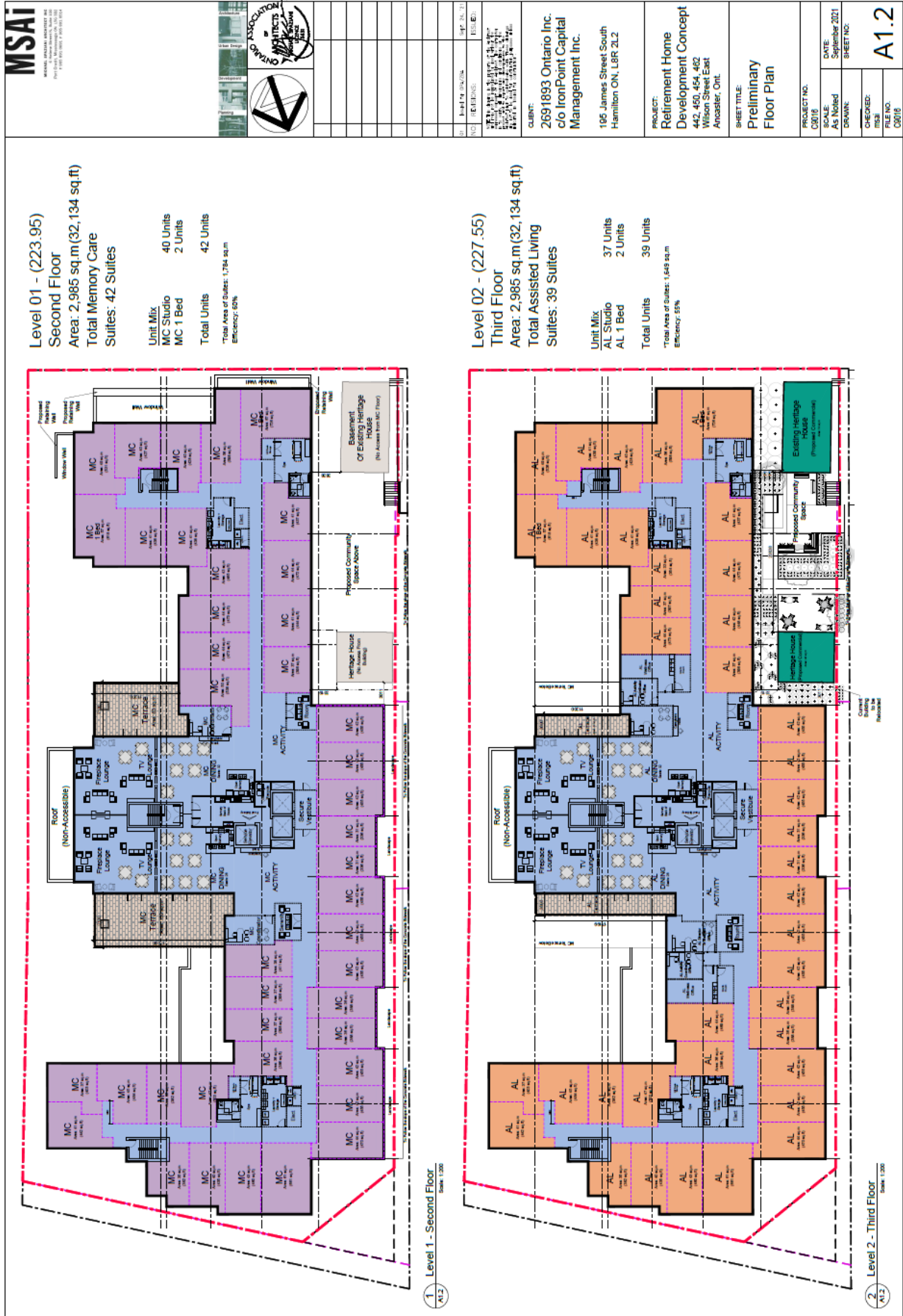
Level D4 - Roof

Level D4 - Roof

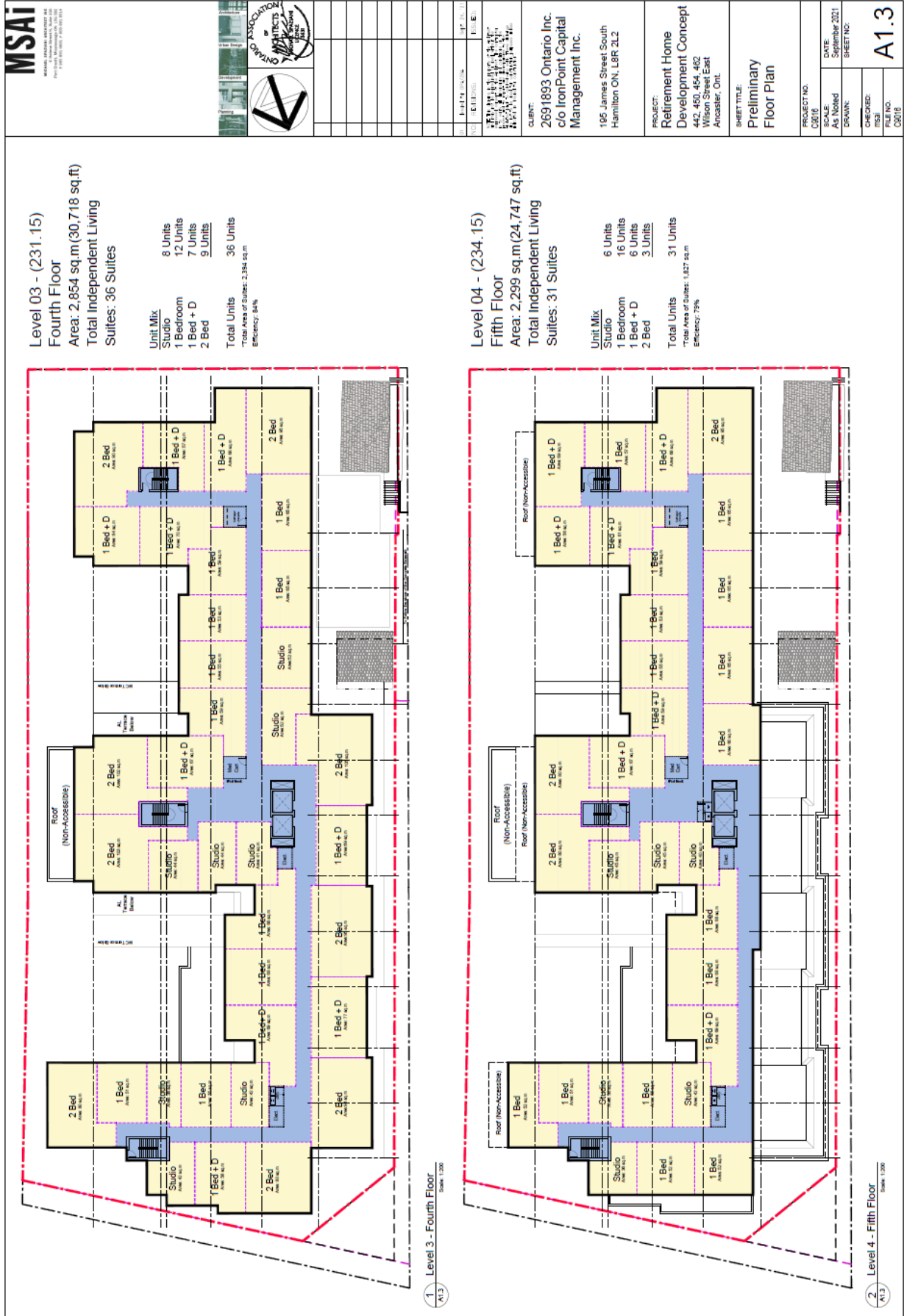
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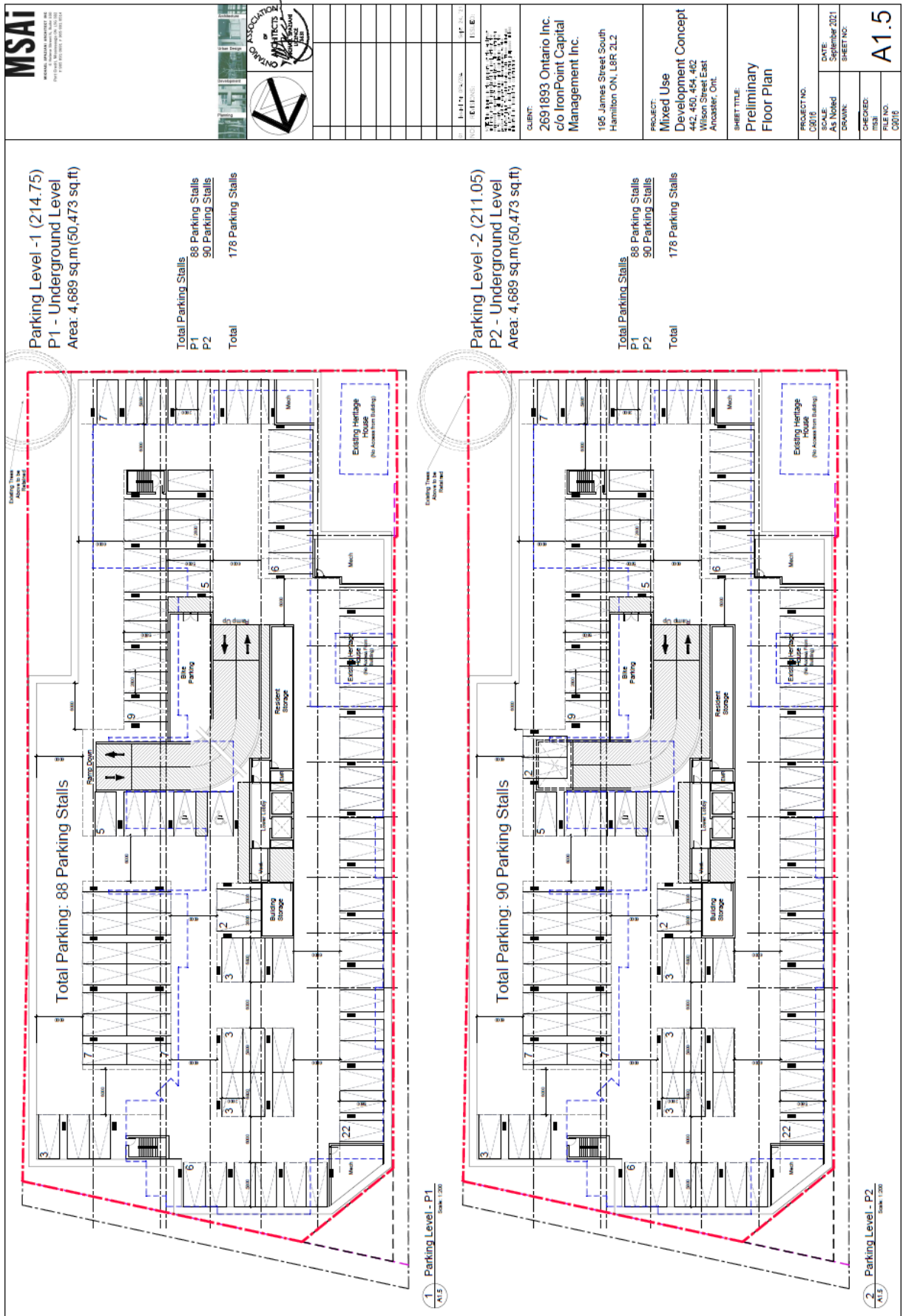
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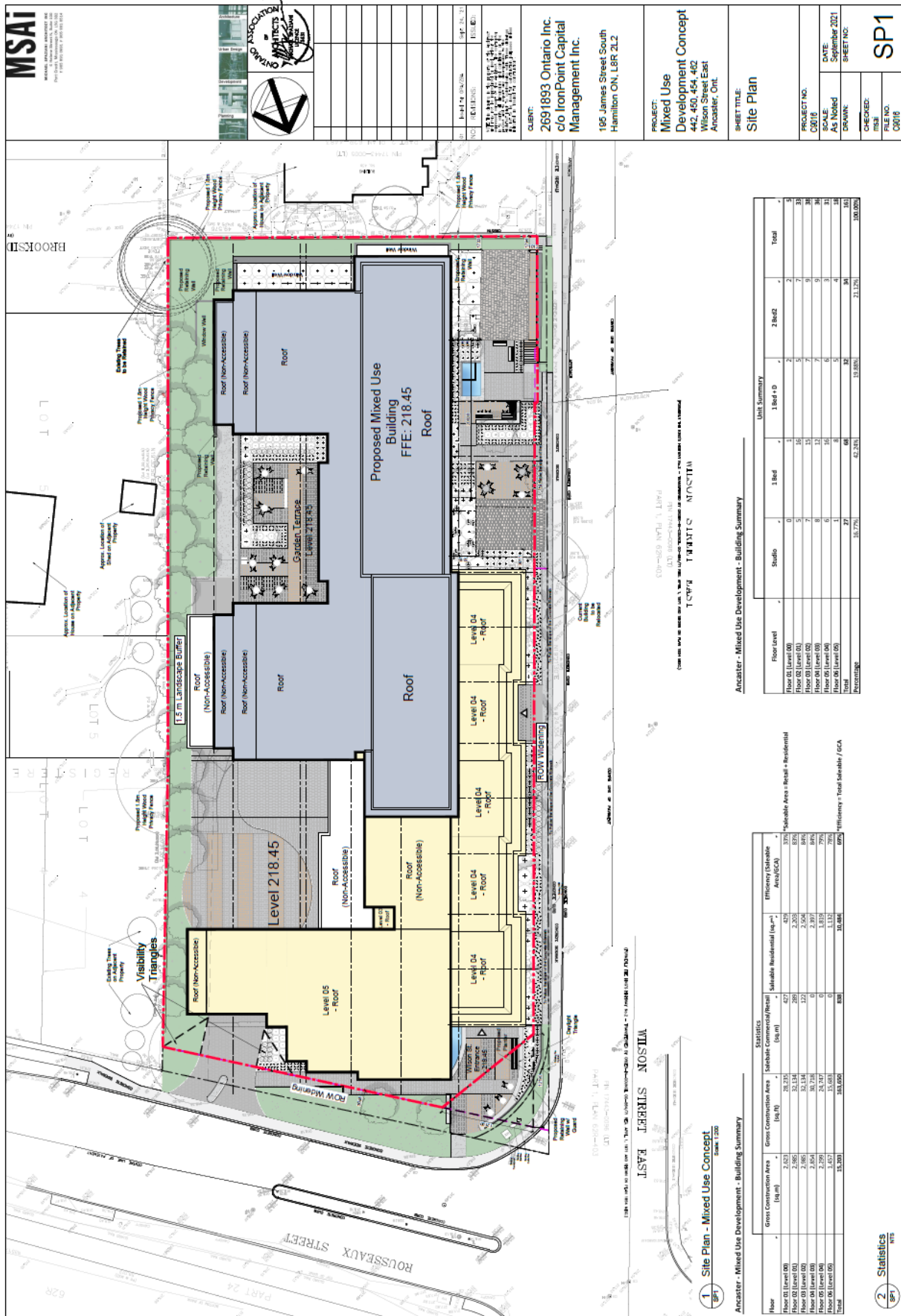
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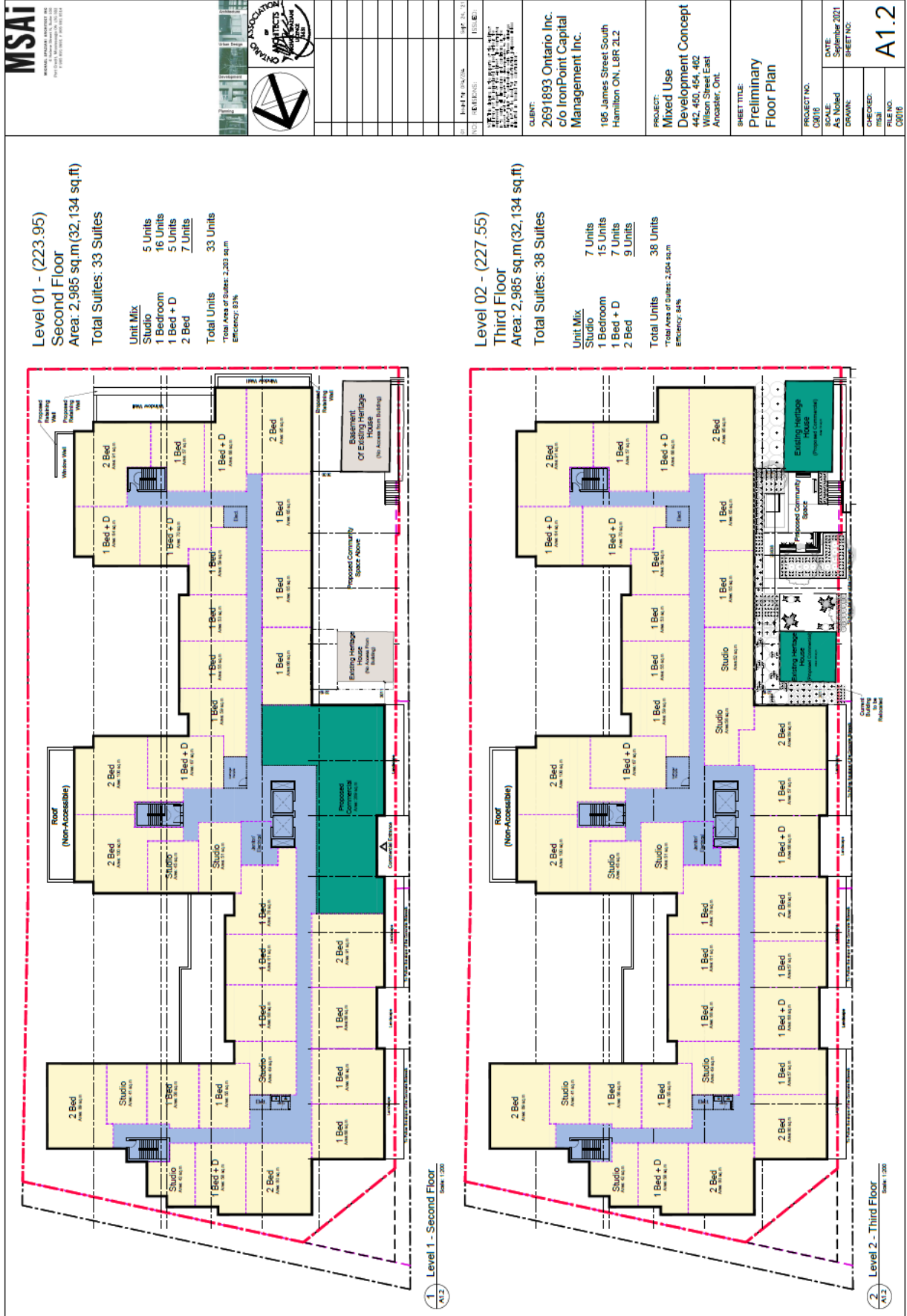
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MUNICIPAL SERVICES ASSOCIATION OF ONTARIO
1000 SHEPPARD AVENUE EAST
SUITE 100
SCARBOROUGH, ONTARIO M1B 3Y9
TEL: (416) 291-1100
WWW.MSAI.ORG

ONTARIO MUNICIPAL SERVICES ASSOCIATION

NO.	DATE	BY	DESCRIPTION

CLIENT:
2691893 Ontario Inc.
c/o IronPoint Capital Management Inc.
106 James Street South
Hamilton ON, L8R 2L2

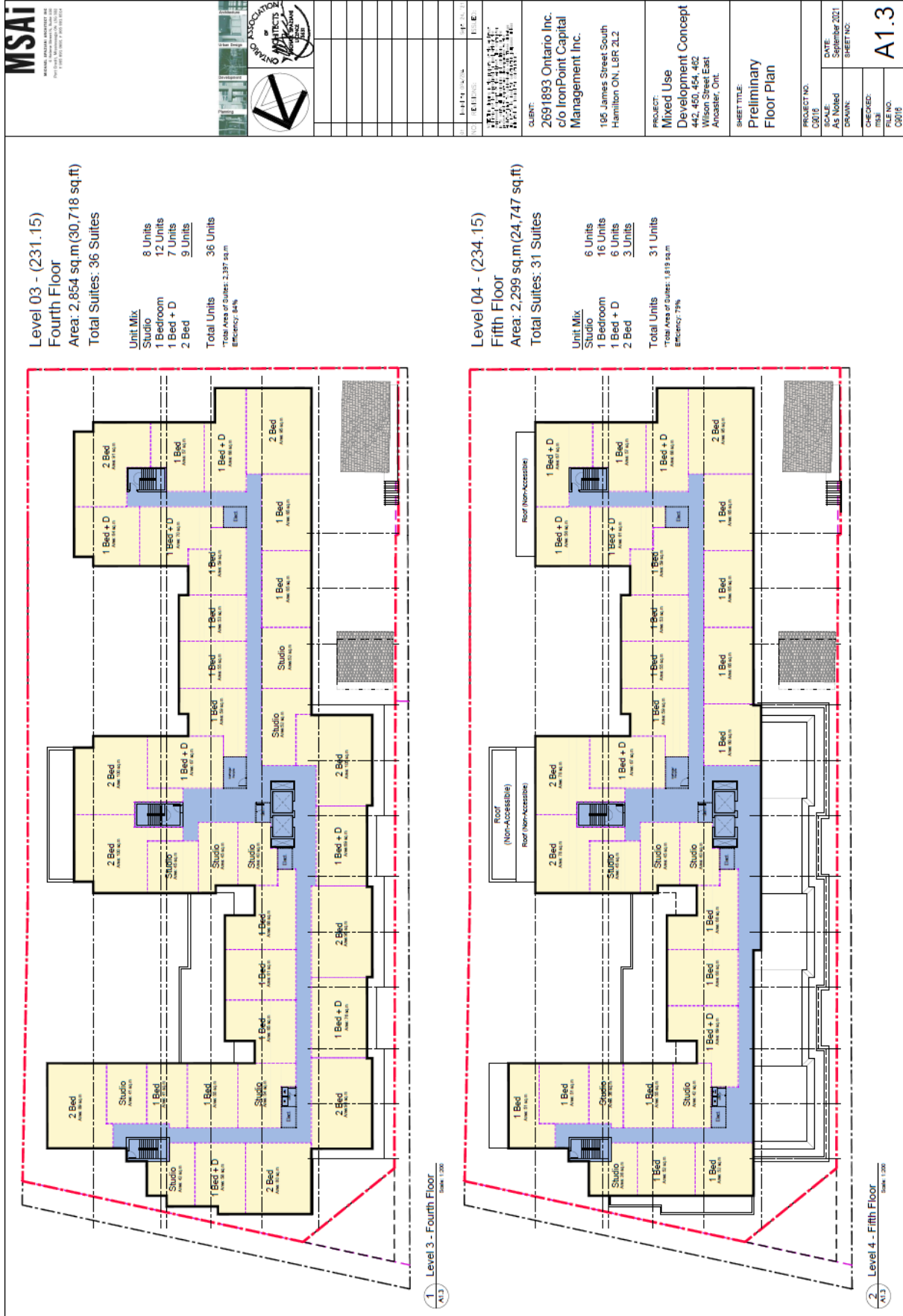
PROJECT:
Mixed Use Development Concept
442, 450, 454, 462 Wilson Street East Ancaster, Ont.

SHEET TITLE:
Preliminary Floor Plan

PROJECT NO.	DATE
00016	September 2021
SCALE	SHEET NO.
As Noted	00016
DRAWN	CHECKED
FILE NO.	
00016	

A1.2

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<p>MSAI MORGAN STUBBS ASSOCIATES INC. 1000 SHEPPARD AVENUE EAST SUITE 1000, SCARBOROUGH, ONTARIO M1B 3Y9</p>	<p>ONTARIO ASSOCIATION OF ARCHITECTS REG. ARCHT. NO. 10000 REG. ARCHT. NO. 10000</p>	PROJECT NO.: C0010	DATE: September 2021	SHEET NO.: A1.3
		SCALE: AS NOTED	DRAWN: DOWN	
CLIENT: 2691893 Ontario Inc. c/o IronPoint Capital Management Inc. 100 James Street South Hamilton ON, L8R 2L2		PROJECT: Mixed Use Development Concept 442, 450, 454, 462 Wilson Street East Ancaster, ONT.		CHECKED: PSE
SHEET TITLE: Preliminary Floor Plan		FILE NO.: C0010		

Appendix "C" to Report PED22037
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From: [REDACTED]

Sent: December 10, 2021 11:29 PM

To: Van Rooi, James

Subject: Proposal for Wilson and Rousseau corner

Hello,

I am writing to express concern regarding the proposed project at Rousseau and Wilson.

This area is becoming busier and busier. I live off a dead end street off Rousseau not far from this location, and it is

already extremely difficult to enter and exit the street.

The character of this project is not in keeping with the town core. And will make it even more congested.

Very disappointed to see this proposal.

It's a shame to lose Brandon house but to forge ahead with a project like this is not in keeping with the best interests of

our town.

[REDACTED]

Appendix "C" to Report PED22037

Page 2 of 97

From: [REDACTED]

Sent: December 20, 2021 9:11 AM

To: Van Rooi, James

Subject: Amica/Condo Proposal - Opposed

Dear Mr. James VanRooi I hope this email finds you well and you and your family are healthy and happy during this festive time of year. I am writing in regard to Ancaster, a town over 200 years old and receiving its official name in 1793. I believe this town deserves more from our elected officials and municipal members. Its' history from then until now is rich and unfortunately being lost due to poor planning and what appears to be greed and corruption. I am opposed to the application put forth by 'Amica' at Wilson and Rousseau Street in Ancaster. Anyone who has any interest in Ancaster would be. The reasons are multiple and include, current zoning, traffic, infrastructure, heritage, need and overall respect for the town and people within it. To start and most simply, height limits are currently 2.5 storeys and this plan is for 7 storeys. Today and in the future no proposal above this should be considered, period. I consider this to be obvious with no need for explanation or reasoning. Secondly the area is not zoned for retirement homes nor is it an appropriate location for one. In their last meeting, Amica suggested that it is a great location because it is close to the village core and inhabitants can easily access such core. They have not been thoughtful to the audience they are trying to manipulate. The majority of the people that would acquire such a living space, either fully capable or not, would have great difficulty getting up that grade to get to the 'village core'. The allowed slope for such a development is 2.5% and the slope here is 5.71%. My father is in a wheel chair with severe dementia and I know I would never be able to push him up that hill even if I exit from the rear of the building. The thought of getting him in a car just to take him ~50 meters away to Tim Hortons or the new and exciting arts centre is ludicrous. Further to that, **this is a very busy intersection and to have so many pedestrians trying to navigate the area is dangerous at best.** On that point, it clearly demonstrates Amicas lack of interest and understanding of the people they plan to provide a safe haven to as well as the people of the town. Thirdly, no expert is needed to determine the road cannot handle it, in both pedestrian and vehicle traffic as well as drainage. Either the retirement home or the secondary condo development they proposed will most certainly cause traffic overload and I don't need a study to tell me that. I drive this intersection everyday at 830 and 530 and without fail it is consistently backed up and frustrating (certainly not has bad during COVID, when a study may have been done, but I haven't forgotten). On top of the obvious issues, sewage and drainage are most

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certainly on everyones radar given the current issues homeowners in this area are already being faced with. Having basements full of sewage due to an overzealous, poorly planned and egregious proposal is not acceptable. Finally and with distinctive importance, neither of their proposals are in keeping with the heritage of Ancaster. The Ancaster Secondary Plan requires that new buildings conform to a heritage architectural style. This has already been done well with several of the 'new' builds along the village core, including the Baracks and the corner of Halson and Wilson St., Bravo to this builder. Using appropriate brick and mortar, windows and doors is important to the keeping of a town and its history and intrigue. The most recent building placed directly in the view of locals enjoying good food and drink at the 'Blackbird', formerly Rousseau House restaurant are now forced to look a building that pretends to fit in but does not and I don't want to see that happen again. It is embarrassing and a delinquent reflection of developers interests and illustration of the apathy among our elected officials and city planners. If developers had some sense they would know and respect the importance of heritage. Perhaps advise the developers to create a vision in keeping with the current bylaws/zoning and the atmosphere of this town. Please take all comments with sincere and thoughtful interest and understanding when you and your colleagues develop your report.

Thank you



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From: [REDACTED]

Sent: December 21, 2021 10:34 AM

To: Van Rooi, James

Cc: [REDACTED]

Subject: Amica on Wilson St.

I feel I must speak up regarding the proposed construction of the Amica retirement home at Rousseau and Wilson streets.

I grew up in Ancaster in the 1950s. We used to refer to the eastern end of Wilson as 'The Village'. I moved back about 6

years ago and live in a relatively new townhouse. I don't resent change but I do resent the destruction of our heritage

buildings and the lovely old trees that made the Village what it was.

A 6 or 7 storey modern looking building at this location completely destroys the heritage of that intersection as did the

destruction of the Brandon house. I see that all of the trees will be removed. Trees are precious components of the

landscape that help to stabilize climate change. Removing them will have a negative effect on our carbon footprint.

Traffic at that corner is barely manageable now but adding a building of that size with more than 100 residents will

make traffic in the Village totally unmanageable. The fact that those exiting the parking only being able to turn right will

have a significant impact on Lodor and Academy streets by all vehicles needing to head west.

I understand the maximum height allowed of buildings in the area is at present 9 m. I also understand that the current

plan for the Village is to allow buildings that 'fit in ' to the current style. Increasing the height to accommodate a 6 or 7

storey building, removing the trees, the stone wall all go against the principle of fitting in to the heritage of Ancaster.

Please do not put through the changes that will allow the construction of such a building.

Sent from [REDACTED]

[REDACTED]

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From: [REDACTED]

Sent: December 24, 2021 12:01 AM

To: Van Rooi, James

Subject: 462 Wilson Street East, Ancaster

Hello,

As an Ancaster resident, I am disappointed to see such an application for 462 Wilson Street East, Ancaster with

significant concerns, blatantly disregarding the pre-existing neighbours, traffic flow, safety of seniors and the overall

development within the area. Why are zoning regulations no longer respected and adhered to? The proposal does not

appear to be complying with community standards and the application should be seriously reconsidered as a result.

Thank you.

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[REDACTED]
Sent: December 10, 2021 10:59 PM

To: Van Rooj, James

Subject: Proposed building on Wilson /Rousseau

It has come to our attention that a pretty large structure multi home /business monstrosity is being planned for the corner and length of street on Wilson .

We are located walking distance to this proposed structure and are against an expansion of this magnitude.

Traffic on Rousseau is terrible on a good day , it is down right a nightmare trying to enter and exit our street (which is a dead end with Rousseau being out only exit)

If there happens to be an accident on the 403 (which is a weekly occurrence) it's impossible!

It is our hope that this doesn't move forward and something less populated is considered on its place .

We moved to Ancaster (explicitly this area) because it was a small town feel , we actually relocated from Oakville because Ancaster reminded us of Oakville 30 years ago .

We are not apposed to a tasteful small unit going up that keeps the village vibe in mind .

This is way too much .

[REDACTED]
Sent from my iPhone

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From: [REDACTED]
Sent: December 21, 2021 12:20 AM
To: james.vanrooi@hamilton.ca; Office of the Mayor; Ferguson, Lloyd; clerk@hamilton.ca
Subject: Invitation for Public Comments - Development (Amica or condo), 442-462 Wilson Street E., Ancaster
Attachments: Amica-Condo_Dec 20, 2021.docx

Hello,

Attached is a letter in response to the city's invitation for public comments regarding the proposed Amica/Condo development in Ancaster

Respectfully,

[REDACTED]

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December 20, 2021

Mr. James VanRooi
Urban Planner
City of Hamilton
71 Main Street West
Hamilton, ON
L8P 4Y5

Dear Mr. VanRooi

**RE: Invitation for Public Comments
Development (Amica or condo), 442-462 Wilson Street E., Ancaster**

I am shocked to read the proposed options for the property of the former historic Brandon House which was torn down under the cloak of the start of the pandemic. The property at the corner of Wilson Street and Rousseau is the gateway to the Village of Ancaster. I feel strongly we need to preserve Ancaster's unique position as the second earliest established village in Upper Canada. This belief is supported by the creation of the Ancaster Wilson Street Secondary Plan which has been totally ignored with either the Amica or condo proposal.

With respect to the Ontario Planning Act, Section 2, this development **grossly exceeds** both height and footprint parameters. With respect to protection of public safety, this intersection cannot take any more traffic at peak periods – the traffic delays are not just felt at the pinch point of Rousseau and Wilson Street, but as far as Golf Links Road and McNiven 2 km away during peak periods. This is a public safety concern for EMS, especially when we are already reading about the number of Code Zeros in our city.

The Ancaster Wilson Street Secondary Plan, developed to protect our historic town's cultural and heritage resources, establishes a goal of 50 people per hectare in portions of Ancaster which includes the Village Core from Rousseaux Street to Dalley Drive (a very short 1.2 km section). Why is the city possibly considering increasing that to 300-500 people per hectare? This request is in no way in the spirit of the Ancaster Wilson Street Secondary Plan and the developer should be encouraged to look at other Ancaster properties, perhaps in the Meadowlands where even then the height they are proposing will tower over the rest of the community.

The list of bonafide concerns continue. After all the “sewer gate” articles in the Spec, have officials at the Water & Sewer Department consented to such a dense undertaking or is the Llewellyn report from the zealous developer the only documentation? In speaking with a staff member at W&S, if I understood them correctly, they say they do a study after the application is approved. That seems backwards to me and will cost taxpayers in the City of Hamilton. The Old Dundas Road pumping station is a longstanding issue and it is unlikely it can support the additional effluent from either a condo or retirement home. Period. Are either proposal feasible with the City's Stormwater Management Master Plan?

Continued . . . 2

Mr. James VanRooi

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And a final point, all of the trees on this property are to be removed. I do not recall the number, but I think it was close to 80 trees. City departments must work in conjunction with one another. The City of Hamilton, Urban Forest Strategy says, "Without intervention, there is a risk that Hamilton will see a slow and steady loss of urban tree canopy cover as the City continues to grow. A clear strategy to guide urban forest management is an **urgent priority** to prevent further loss and impacts to urban forest health. The urban forest is a shared resource. Managing the forest is a joint effort between City departments and other agencies working together. It also relies on the actions of residents, community groups, Council and the private sector. Working together and communicating often are important ingredients for a successful urban forestry program." Given all the trees were removed for the long-term care home currently under construction at the corner of Golf Links and Southcote (also a soon-to-be exasperated traffic issue), and the Urban Hamilton Official Plan target to reach 30% canopy cover, has that department consented to the loss of more trees in Ancaster? The Urban Hamilton Official Plan sets a target of 30% canopy cover.

I support intensification. I am confident there are lots of properties in Ancaster to build an Amica retirement home and condos. NOT IN THE 1.2 km OF THE VILLAGE CORE!

In conclusion, both proposed developments fail to meet numerous criteria from sheer mass, height, density, lack of incorporating heritage features and design. Additionally, there are real concerns regarding the additional effluent, traffic and the loss to the tree canopy. Given the sheer magnitude of all of these factors during a time in history when all resources are scarce and staffing shortages abound, why are we wasting city resources entertaining such brazen proposals that so clearly do not come close to following any of the established bylaws and plans. I encourage the city to enforce its bylaws and turn down these proposals and simply say, "no".

Respectfully,



Ancaster Resident

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From: [REDACTED]
Sent: December 21, 2021 5:39 PM
To: Van Rooi, James
Cc: Ferguson, Lloyd
Subject: Amica Development on 462 Wilson Street East
Attachments: Amica Letter December 21 2021.pdf

Good evening James
Please find attached and copied below my response to the Amica development at 462 Wilson Street East, Ancaster.
Thank you for your time
[REDACTED]

James VanRooi
City of Hamilton
December 21st 2021

Amica/Condo development 462 Wilson street East Ancaster

Attn: James VanRooi

I would like to express my disapproval of the application for the Amica or Condo development at 462 Wilson Street in Ancaster. I really believe this is a ridiculous idea for the following reasons:

- The Wilson Rousseau junction has heavy traffic during the day and in particular at rush hours in the morning and afternoon
 - This is amplified when there is traffic on the 403 southbound during these times when cars exit to try and bypass the traffic build up by exiting at Rousseau, and the 403, when they exit at Wilson street West towards Ancaster. This creates massive back logs in the town of Ancaster. I drive it every day from the Ancaster business park.
- The driveway out of either development will be a right tun only????? You cannot be serious!! Please, someone explain these points:
 - When food delivery trucks, garbage trucks, linen trucks, staff, visitors, residents want to go south towards the centre of Ancaster village or Fortinos, or the Brantford West exit, how do you suppose they will do that with only a right turn exit? Will they drive down Rousseau to the Lincoln A Pkwy and double back on themselves or will they simple turn down a residential side street named LODOR STREET (which you may have guessed I live on) because that is the easiest and simplest route.
 - When food delivery trucks, garbage trucks, linen trucks, staff, visitors, residents want to go North down Wilson Street how do you expect them to do that with no left turn? Yes, you guessed it, they will turn down LODOR STREET, then ACADEMY STREET to get to Wilson Street. Does not make much sense to hit the 403 to Aberdeen then Dundurn then King Street West towards Dundas now does it?????

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This is just absolutely absurd that we try to squeeze a building of this size on to the corner and then dictate the traffic one way because the corner is so busy they can only turn one way.

- Is there turning room for these delivery trucks, garbage trucks, Linen trucks on the driveway? Or will they need to back out onto Rousseau once they have done their delivery or pick up? Or will they simply park on Rousseau to do the delivery or pick up?

If you do not believe the above points will impact the traffic and local community then you clearly do not live in the vicinity of where they are wanting to build this

- Retail units. Where is the parking for these retail units? Will they park at the one of two free parking lots in the town centre about 900 meters away, or possibly on the side streets which are closer?
- How does a 6/7 story building fit in Ancaster? I do not see any other building of that height in the downtown core. Why do they need it this high? Because the higher it is the more money they make. They have no regard for the town itself or its residents. Maybe the artist could draw the back and side of the building from the residents point of view so we can all see what we will be looking at from our windows and back and front yards.
- This is one of many new developments coming or trying to be developed in or close to the centre of the village core. How many can be sustained within the core without effecting the traffic and other services such as water, electrical and sewage.

And lastly,

- Will each unit in the retirement facility or condo have individual air conditioners, or will they be roof top units? Will the locals have to hear the humming of these individual units day and night?
- will the retirement home have a back up generator to support any possible medical devices their occupants need? In order to support the size of the building that would have to be one hell of a generator.

I hope everyone was able to read my concerns, and those of any other residents that have written in. I am yet to meet anyone other than the developer that thinks this is a good idea for the area.

Sincerely

████████████████████

████████████████

Ancaster

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From: [REDACTED]
Sent: December 7, 2021 9:22 AM
To: Van Rooi, James
Subject: Good Morning

My name is [REDACTED]; I was recently advised of the OP and Rezoning Applications for the properties at 462,454,450, and 442 Wilson St E in Ancaster. Jim can you tell me whether the Public Hearing will be a zoom meeting or will it allow for personal appearance and speaking. If it is a live meeting is there a time limit on how long one could speak. If it was me it would take about 10 minutes to give my summary but I would not repeat any previous comments. Please advise -- thank you [REDACTED]

--

Please note that my email address has changed to wilkinsrobertj@gmail.com

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From: [REDACTED]
Sent: December 7, 2021 11:48 AM
To: Van Rooj, James
Subject: Files ZAC-21-049 and UHOPA-21-023

Jim , I am in florida on holidays so after thinking about it , I thought I should get my submission to you earlier rather than later. My wife and I have been life-long residents of Ancaster . As such we have considerable knowledge of the Town , now and before amalgamation with the City of Hamilton. These applications for OP amendment and Rezoning must be taken in the context of the historic Ancaster village, not in isolation. In other words the request for 6 or 7 storey buildings cannot be compared to other sites in the former town of Ancaster along Rymal rd etc. These are irrelevant to these applications . Ancaster is the third oldest community in Ontario---1793. The destruction of heritage communities and/or buildings is important as they cannot be replaced . The planners in the city and the politicians have recognized this principal for a long time when it comes to the Village of Ancaster . What is so special about Ancaster ? In 1793 land was not at a premium price . House and commercial buildings in the Village area had spatial separation . You would see the side of a building ; you would see the front of a building ; you would see the other side ; you would see a grass space ; then you would see the side of the next building ; then the front of the next building and so on. What is special is that the streetscape was three dimensional. The buildings were humble and relatively small and did not have a huge mass . Now let's compare this to Dundas . Dundas was established in 1846 and most of the current older buildings were constructed in the late 1800's . Land was at a premium and all the building touch . There is a single elevation streetscape and the street is essentially gray in colour . I say this because not as much light or greenery. I still do love Dundas. When you drive through Ancaster you say wow this is cute . The old Ancaster Police Village has been protected by the OP , Zoning and secondary plan over the years. I do not have my OP copy, all the past zoning bylaws with me or the new secondary plan with me so I cannot refer to the section numbers by memory but planning staff can easily identify them . So the zoning has changed over the years from Village Area , to the next was it 87-57 don't remember to the new comprehensive zoning bylaw . So what was in those documents that is important . There has been a height restriction - it was 35' and now it is in meters . This was to keep the historic village in context with the height of its original buildings . Another important provision in the planning documents is a special one : there is a set-back requirement between buildings -- wow to preserve the three dimensional streetscape . Next design and material guidelines were included in the villages secondary plan . These were intended to stop the process and ask -- is a new proposed development consistent with design (size and mass is one important design characteristic) and does it's look fit in . It is my opinion that a structure of this size and mass is not consistent with the look of the village . It really is maximizing the development of the land and is not in balance with the rest of the village. Examples of new developments in the Village that would meet these requirements are 231 Wilson St E -- the Flow by Nicole and Wynne Pringle building ; the clock tower at 253 Wilson St E and the Barracks Inn at 425 Wilson St East . These are a few examples of what is possible . Another good example of scale is the City's new Memorial Arts Centre . Two thirds of the old school was saved and the addition does not dominate the streetscape . Once an historic village is destroyed it cannot be replaced . This giant structure would be the first thing you see when you enter the village from the north . There are lots of other spots in the city where the proposed building could be located . Lets save our little humble village for many generations to come.

--

Please note that my email address has changed to wilkinsrobertj@gmail.com

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From: [REDACTED]
Sent: December 10, 2021 8:04 PM
To: Van Rooj, James
Subject: Corner of Wilson and Rousseau

To whom it may concern.

I have a lot of concerns regarding the proposed development at the corner of Rousseau st and Wilson street in Ancaster. Our small quaint downtown will totally change and the small historic buildings will not be the same.

On top of that the traffic in this area is already totally crazy during certain times of the day and this will make it worse. Not to mention how the traffic already builds up if there is an accident on the 403.

Please consider changing the plans for this development. It is not in our small beautiful towns best interest.

[REDACTED]

James Van Rooi, City of Hamilton
Planning and Economic
Development Department
Development Planning, Heritage
and Design-Suburban Team
71 Main St West, 5th Floor,
Hamilton, ON
L8P 4Y5
Re: ZAC-21-049/UHOPA-21-023

1. Heritage

By approving this project, we are complicit in the defacing of Ancaster.

Though apparently legal, the developers of this project and an extension thereof, have taken advantage of the COVID crisis to remove an integral part of the heritage of Ancaster, the Brandon House. We as citizens do not take this lightly and this will not be forgotten. The redevelopment should salute, address, and complement the heritage of this town we wish to project to both visitors and ourselves. The proposed development doesn't replace the heritage that was removed from such an important location in Ancaster.

A house of this nature should have been restored, made part of the redevelopment, or moved but never destroyed.

We all need to remember what has transpired and what we have been left to decide upon today in its place.

2. Vision

Wilson and Rousseaux is the major intersection entering the core of a town, which wishes to maintain its heritage. We cannot replace what has been violently taken from us, since it is irreplaceable but we can find a way to echo what it represented and maintain the core value of what the citizens want. I can find in no way what the concrete monolith proposed, will serve our core values. Do we want the visitors to our town to be stimulated by a representation of our great heritage of our town or accept the vision of a generic building melting in their memory as they enter our town. We need to remember what both physically has been taken away, and the weight of our contribution to maintaining the heritage and vision of the town.

3. Traffic

In my opinion this is the number one problem facing the town of Ancaster. To state that the proposed development will amplify the daily gridlock is an understatement. Accepting this

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development without both an updated grand traffic plan for the town and the intersection is irresponsible.

The traffic from this building will be high, including tenants, visitors, ambulances, transports for supplies and commercial traffic. All of this placed in an intersection bearing on gridlock now. In conclusion, the site and density of the proposed redevelopment at the Wilson and Rousseaux intersection will add to a critical failure of the Ancaster traffic plan. We all live in Ancaster to enjoy the quality of life it offers. The traffic in Ancaster is already destroying the number one reason to live here, quality of life.

To agree to accept the proposed development would be a catastrophic failure to uphold the vision and heritage of Ancaster.

To agree to accept the developers' insensitivities to date and move ahead with this project would be disrespectful to the citizens of the Hamilton.

To agree to accept the proposed redevelopment without a revision of the traffic plan of Ancaster and the Wilson and Rousseaux intersection will also be catastrophic.

We must reject the proposed development and incorporate the essence of what Ancaster is in the redevelopment of this historic and invaluable placed property.



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From: [REDACTED]
Sent: December 8, 2021 9:43 AM
To: Van Rooi, James
Subject: PROPOSED AMICA Development Wilson / Rousseau St

Mr. VanRooi.

Am appalled to read of the proposed Amica development at the junction of Rousseau and Wilson Streets in Ancaster.

- 1) This junction is considered to be the most congested in Hamilton. Plans were proposed to build a roundabout to address the multitude of traffic problems both at the junction and, through cut through traffic, in the Maywood area. This development will not address, but exacerbate those issues.
- 2) The development proposes that there will be no left turn up Wilson St for exiting vehicles. They will all thus cut through Maywood making the situation even worse.
- 3) This development totally ignores the height or streetscape requirements described in the Wilson Street Secondary plan and area zoning. That alone should be reason for its immediate rejection.
- 4) A Retirement home is not permitted at this location.
- 5) The height and mass of the building are out of character with Ancaster. They will present residents and visitors with an eyesore when entering the village. It does not comply with the requirement to have new buildings " fit into the Village core".
- 6) The mature trees on this lot will be destroyed causing environmental degradation.

Trust this proposal will be summarily rejected and the applicants encouraged to submit a development sympathetic to the Village.

[REDACTED]

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From: [REDACTED]
Sent: December 24, 2021 10:12 AM
To: Van Rooi, James
Subject: Amica building

Hi James, quick reply to our concerns
Regarding this Retirement complex..

1. Traffic the biggest issue
2. Out of scale for Ancaster's downtown core.

I am not against developing property in Ancaster like severance or 3 storey building but this is not Plains Rd, and it would affect the ambiance of the old Mill too. Ancaster has an appeal to visitors because of its old town feel. This is the reason why we choose to live here..

[REDACTED]
Thks, [REDACTED]
Sent from my iPhone

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From: [REDACTED]
Sent: December 8, 2021 12:41 PM
To: Van Rooi, James; admin@saveancaster.com
Attachments: ATT00001.txt; a0.gif; a1.gif; a2.gif; a3.gif; b0.gif; b1.gif; b3.gif; c0.gif; c3.gif; d0.gif; d3.gif; e0.gif; solidline350.gif; VP_LOGO.JPG

Hello Mr. Vanrooi

As a life long resident of Ancaster, I applaud your plan to add additional senior living to our town. As I age, I like having options to remain in my home town. However, the location, design and height of this Amica residence is extremely concerning!

The Wilson and Rousseau intersection is so congested as is, let alone adding a large complex that will definitely bring traffic to a halt. A project such as this requires space and it appears you are attempting to "cram" it onto a "postage stamp" sized lot!

I have seen pictures of the proposed design ... it would "fit" well in a larger city, but does not capture the uniqueness of our town! The Fire Grill and Coffee Shop designs definitely project more of the Ancaster heritage, but the 7 storey building overwhelms any positives you have captured. There is a reason for a 3 storey limit and that is to maintain a quaint atmosphere; unfortunately, this design missed the mark!

Perhaps it is time to go back to the drawing board, to seek a more appropriate location and redesign a residence that reflects Ancaster heritage values.

Thank you for your time.

Sincerely
[REDACTED]

This awesome pic message was sent from a Virgin Plus phone.

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From: [REDACTED]
Sent: December 23, 2021 8:30 PM
To: Van Rooi, James
Subject: Amica proposal

To whom it may concern

I request that you try and drive through the intersection of Rousseau and Wilson during rush hour now and imagine

what it will be like if you go ahead with your plans, a nightmare.

Please reconsider

Sincerely

[REDACTED]

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From: [REDACTED]
Sent: December 13, 2021 8:25 PM
To: Van Rooi, James; admin@saveancaster.com; Ferguson, Lloyd
Subject: Wilson Street Amica Retirement Home Opposition
Attachments: SCI-Traffic-Report-Sept-2021.pdf

Hello,

My name is [REDACTED]. I am a McMaster student and a resident of Ancaster who relies on bus service along Wilson Street. I am writing in opposition to the plan to build a retirement home operated by Amica Senior Lifestyles at the Rousseaux/Wilson intersection.

Wilson street has traffic problems. This building will make them worse. Wilson is a narrow, two-lane street, lined by businesses which cars must slow down to pull into. It doesn't have the capacity to handle more traffic during rush hour. In response to this concern, A Transportation Impact Study was commissioned by the owner of the property where Amica's building will go. It states the following:

*"...the Wilson/Rousseaux intersection is operating **at or near capacity** in both the weekday morning and afternoon peak hours. In addition, there are **long queues** occurring at times in the busiest weekday hours on all four approaches to the intersection..."*

- (Page 4 section 4.2 of the attached report).

By their own reporting, this intersection absolutely cannot handle any additional traffic during peak hours.

Every day, I catch the bus at Wilson/Fiddler's Green and then take a connecting bus at Wilson/Rousseaux. Any slowdown in traffic could cause me to miss my connecting bus and be stuck waiting for at least 30 minutes before the next bus arrives. This already happens occasionally under current traffic conditions, which can only be worsened by Amica's oversized building.

Furthermore, this building plan violates zoning rules stating that buildings must be under nine metres tall, and that a retirement home is not an approved use for this location. I do not believe these rules should be amended. They are appropriate for the area and they serve to ensure that local roads are not overwhelmed.

To summarize: Do not amend the zoning rules, they exist for a reason. If you approve this plan, Wilson Street will become even more clogged and you will be directly responsible for adding an hour to my daily commute. Please do right by residents and deny this proposal.

Regards,

[REDACTED]

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From: [REDACTED]
Sent: December 16, 2021 11:51 AM
To: Van Rooi, James
Subject: Amica retirement condo project at Rousseau and Wilson Street Ancaster

Mr. Vanrooi: As long time residents and tax payers in Ancaster, we wish to register our protest against the proposed Amica development. The size, scale and density of the complex is utterly inappropriate for what is already a busy congested intersection. Moreover, nothing about the project conforms to current bylaws and heritage guidelines.

High density developments like this should only be located in areas where they are in accordance with the official plan and bylaws.

[REDACTED]

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From: [REDACTED]
Sent: December 23, 2021 10:18 AM
To: Van Rooi, James
Subject: Building a retirement home/condo apartments at corner of Rousseaux and Wilson St W
Ancaster

To whom it may concern

I am absolutely against any such development at the site of the former Brandon House in Ancaster.

It goes against all rules and regulations for building at that site .

Traffic congestion is already over whelmingly out of control. It would be absolutely improper to add more people and cars there.

I hope you take this into consideration when making your decision.

Thank you.

[REDACTED]

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From: [REDACTED]
Sent: December 8, 2021 11:53 AM
To: Van Rooi, James
Subject: 462 Wilson St E Development

Hi James,

Heard about the proposed development at 462 Wilson St E in Ancaster.

As a resident of Ancaster, I feel this is such a horrible idea to begin with. There are multiple reasons to avoid/cancel this development:

- 1) Village heritage will be destroyed with this change.
- 2) Traffic will be pathetic here if the proposed plan goes through. This intersection is already at capacity and going for a 6-7 storey would just add to the stress.
- 3) Removal of big trees - never a good idea.
- 4) The charm that the village has will be ruined by these tall buildings. Are we planning to become another Mississauga?

The city must not go ahead with this development. I have to my concerns against this development.
Hope sanity prevails!

[REDACTED]

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From: [REDACTED]
Sent: December 17, 2021 2:07 PM
To: Van Rooi, James
Subject: wrong place for amica and condo

Dear Mr. Vanrooi,

I am extremely opposed to the application put forth by 'Amica' at Wilson and Rousseau Street in Ancaster. The reasons are multiple and include current zoning, congested traffic, infrastructure, heritage, pollution, etc. The building of the structure itself would be a nightmare, with regards to traffic interruptions, considering the small space.

Traffic flow is increasing daily and already a major problem in town, as well as a huge and growing problem up and down the escarpment/403.

The height limits are currently 2.5 storeys and this plan is for 7 storeys. Today and in the future no proposal above this should be considered at all. The area is not zoned for retirement homes, nor is it an appropriate location for one. I would never consider putting a parent in that location... **up against idling car fumes all day long!!** In their last meeting, Amica suggested that it is a great location because it is close to the village core and inhabitants can easily access such core. The majority of the residents would have great difficulty getting up that grade to the 'village core'. The allowed slope for such a development is 2.5% and the slope here is 5.71%.

I hear there is another condo building being considered nearby, and I want to add my disapproval to that too for the same reasons. There are **larger** properties available out by Walmart that would provide quality green space for the seniors home, and allow for higher, larger condo buildings, more parking spaces. The flow in and out of these buildings would be less of a hassle at the Walmart end of town, especially for large delivery trucks for the seniors residence.

Thanks for taking the time to read this.

[REDACTED]

Sent from [Mail](#) for Windows

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From: [REDACTED]
Sent: December 24, 2021 11:18 AM
To: Van Rooi, James; clerk@hamilton.ca
Subject: Amica Development at 442, 450,454 and 462 Wilson St E.
Attachments: clip_image001.tiff; Amica RousseauxWilsonStE.docx

Clerk of City of Hamilton

James Van Rooi, Planning Department

City of Hamilton

71 Main St W

Hamilton, ON L8P 4Y5

December 24, 2021

Re: Amica Development at 442, 450,454 and 462 Wilson St E.

Official Plan Amendment UHOPA-21-023

Zoning By-Law Amendment ZAC-21-049

To Whom It May Concern:

I write to you today about the development at the corner of Wilson St East and Rousseaux in Ancaster.

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The as-of-right zoning permits a 2.5-storey residential apartment building with at-grade commercial uses. The owner would like to increase this height to accommodate a retirement home or an apartment building of up to 7 storeys.

In light of the affordable housing crisis, I would suggest that any height allowance (one or two storeys more) be granted but that a majority of the increased height be planned and retained as geared to income affordable housing.

Parking minimums should be drastically reduced to reducing vehicular traffic and encourage active transportation. Sidewalks around the development should be widened to increase pedestrian safety.

Transit should be improved to Ancaster so driving is not essential for tenants.

Traffic calming should be provided by the developer on the adjacent streets to reduce the impacts of traffic as new tenants with cars will attempt to drive to Wilson St. East through the neighbouring streets.

The three 80-foot Norway spruces on Wilson St. East should be retained. They should be considered heritage trees in Ancaster.

This retirement home in Milton has the type of architecture that would better suit the heritage aspects of Ancaster and Wilson St. East.

Revera Birkdale Place

In keeping with subsections 17(35) and 51(37) of the Planning Act, I request to receive notice of any decision of Council related to this development proposal.

Thank you,

██████████

██████████████████

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[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: December 8, 2021 12:02 PM
To: Van Rooi, James
Cc: admin@saveancaster.com
Subject: 462 Wilson St E Ancaster

Dear Mr. VanRooi,

I am writing about my objections to the Retirement Facility Plans for 462 Wilson St E in Ancaster. I live in Ancaster and drive past this property on Wilson St regularly on my way to work. There is no way this development is appropriate for this property for many reasons. This development is completely out of character for the neighbourhood. It will tower over the older homes and neighbourhood where it is situated and destroy the character of the area. What happened to Ancaster's By-law of a 3 story limit? Does the city think it does not have to honour this? There may be room on the actual property, but there is no room in the surrounding community or roads for the added stress this will put on traffic and the neighbourhood. The fact that the demolition of the Brandon House was sped through approvals before the community had an opportunity to provide input was abhorrent. Pushing this huge development through in an area of old neighbourhoods will further this dereliction of duty the City Planners owes to residents.

The intersection there already cannot handle the current traffic on a good day, but whenever there is an issue on the 403 Wilson St becomes even more clogged to a standstill, literally trapping residents from their daily activities. I have sat in this traffic all the way back to the Wilson St exit from the highway trying to take my children to school, and my children's bus has been late to school because of this back up along Wilson St from traffic trying to turn onto Rousseau St. Forget trying to get to the grocery store, bank, pharmacy along Wilson. This happens regularly. Clogging up Rousseau St with traffic from this development will make things worse not only along Wilson St, but in the neighbourhood behind it traffic will have to go through there to go back up into Ancaster. Again, this area already cannot handle the traffic through there currently. Is a traffic study not required before approving this? Because there is no way it would show that the area can support the added traffic.

With the other intensification projects the city is also considering along Wilson St, Ancaster is being set up for traffic gridlock daily. Please consider the impossible long term effects this will have on our roads! Is the city prepared to deal with this significant problem it will create for current residents? We will need a people mover to get anywhere along Wilson St! This is clearly not a well thought out or planned development. It's too big and too much! We are already overwhelmed. Please don't do this to Ancaster. Please don't do this to us!

Sincerely,

[REDACTED]

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[REDACTED]

From: [REDACTED]
Sent: December 13, 2021 8:03 PM
To: Van Rooi, James
Subject: ZAC-21-049/UHOPA-21-023 Reply
Attachments: 20160609_060403.jpg

To James Van Rooi, City of Hamilton
Planning and Economic Development Department.

From: [REDACTED]

Dear Mr Van Rooi: As I live in proximity of the proposed development identified above I wish to make some comments which I hope, may be helpful to all concerned. I have been in the residential construction industry for over 55 years.

It is a good sign when companies choose to build in Ancaster, especially with retirement homes. The relative peaceful setting in the midst of an abundance of mature trees and many stone facades complements a small town feeling.

Yet we all know, that to keep this small town reality requires sacrifices by builders, and their expectation to meet a community's needs plus making the project financially feasible. Has a soil and rock study been preformed?

There was a reason why the house sat so high on the corner lot.

Furthermore, the traffic on that corner is already so congested seeing that it is the connecting traffic route of many commuters from Dundas/Hamilton West, McMaster University and Ancaster Meadowlands and the Lincoln Alexander Parkway. It would be completely unfair for pedestrians and drivers to deal with the restricted visibility of a 7 storey building to safely navigate this intersection. Has a traffic study been undertaken including emergency vehicles needed to service this proposed building? Are the owners aware that a possible future roundabout is considered for this intersection and part of their property would need to be expropriated?

Furthermore, the proposed building would interrupt a natural deer route. We don't like to impede progress and make good use out of a few lots but this proposal seems to overwhelm the serene atmosphere of a village core. Certainly, there must be a better location within Ancaster to build such a large facility without encroaching on this lovely community.

Thank you,
God bless you

[REDACTED]

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Attached is a deer in my backyard very close to the proposed development.



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From: [REDACTED]
Sent: December 10, 2021 5:01 PM
To: Van Rooi, James
Subject: Fwd: Proposed Official Plan Amendment/Zoning By-Law Amendment ref: ZAC-21-049 and UHOPA-21-023 address: 442,450,454 and 462 Wilson Street E

Mr Van Rooi,

I write to raise my objections to the application filed by this developer to change the bylaw and zoning to permit the use that they are proposing. This is completely inappropriate for this location within the village core of Ancaster. The Ancaster Wilson Street Secondary Plan, as it exists today, was written with the intention of protecting the heritage of the village core. The proposed use is not permitted. I object to any building within the village core being any taller than the existing bylaw and zoning permits. The property owner ought to have been aware of this when they purchased and amassed this parcel of land. I would also point out that the traffic level is much too heavy at peak hours to permit the proposed use and additional traffic that will occur because of any amended density.

Although the developer's submissions contain useful information, I would note that the notice sign posted on the property by the applicant is incomplete, due to the lack of making the general public aware of the existing planning and zoning requirements, and that it does not give proper notice of any public consultation meeting in regards to this application. I would ask that the applicant also post the specifics of what is allowed under the existing by-laws and zoning, so as to make the public fully aware of what is being requested. No date with due notice is set out on the posted sign.

Two years ago the owner made an extreme assault on the heritage of the Village of Ancaster by way of the egregious destruction of the Brandon House, which was situated on this parcel. There was little regard for the City of Hamilton, the Village of Ancaster, or its citizens and ratepayers. This development can not be "rewarded" with proposed amendments to the zoning and planning as already set out

The citizens and heritage of the City of Hamilton require protection from this form of wanton disregard of our sense of community.

I ask that you, and the City staff do not allow this to take place, as it is not in the best interests of the community.

Respectfully

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John Wark
54 Dydzak Court
Hamilton, ON L9B 1W1
905 971 2341

[Redacted]

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From: [REDACTED]
Sent: December 22, 2021 6:48 PM
To: Van Rooi, James
Subject: Re Amica at the corner of Rousseaux and Wilson.

My issue with the proposed Amica construction is in line with the long held concept of maintaining a historical village atmosphere in Ancaster. Many newer buildings have purposely been built in the old style. Just as Hamilton has Westdale and Hess Village, Ancaster with its old stone buildings is worth preserving. Maintaining small quaint quarters within Hamilton is desirable as it makes our city more than just a conglomeration of streets without unique areas. Keep the Village of Ancaster a village of our history. It's good for Hamilton.

[REDACTED]

Sent from my iPhone

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From: [REDACTED]
Sent: December 24, 2021 9:56 AM
To: Van Rooi, James; admin@saveancaster.com
Subject: 462 Wilson St E- Amica

Good Morning Mr. VanRooi,
My name is [REDACTED] and I live on [REDACTED] in Ancaster. I am against the proposal of a 7 story retirement home Amica home in Ancaster since the traffic is already a nightmare and the building is simply too high! My commute to work and daycare is already brutal and the traffic in this whole area is already congested. Anyone with common sense can see it is a bad idea. I am 100% against this proposal and this project!!!
Thank you
[REDACTED]

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From: [REDACTED]
Sent: December 9, 2021 6:26 PM
To: Van Rooi, James; admin@saveancaster.com; Ferguson, Lloyd
Subject: Decline Amica's proposal: Letter from Residents

To The City of Hamilton

From Residents of Ancaster: [REDACTED]

We want you to use common sense and say "NO" to Amica's proposed development for Wilson and Rousseaux in the town of Ancaster. We both commute to work and experience the congestion that currently exists. We already must leave extra time in the morning to get through this area and rush hour in the evening is awful as well. Many times, we take Academy as an alternative to avoid the congestion and get onto Rousseaux. Imagine what Amica's development would do to the traffic congestion! It's not fair that those residents must deal with overflow NOW with the way things ARE and it would be horrible for that neighborhood to have to deal with this proposed mess of traffic.

Our parents are all living. They are ages 93, 83, 81 and 80. No way would we suggest that any of them buy into a building this size, in this location. It's dangerous to put slow moving people at the corner of a busy intersection. By the way, in cases where residents don't drive, where will the DARTS busses be stopping to load and unload? They leave their engines running and that means more neighborhood pollution.

Now for the reasons we moved here in the first place. We have always loved the small-town appeal of this village of Ancaster. That's why we settled here.

Currently the 3-storey limit seems to be working in some areas although even that takes careful planning. 6 or 7 storey buildings would darken the streetscape. Currently the sun shines on the street in the mornings, in this area. With the proposed building height, the street would be darkened until noon when the sun is directly overhead. Yuck.

Just decline the proposal. And do it on our behalf. Because we are the people who live and work here, and we don't want Amica's huge buildings in this location. Use common sense. Tell them to build somewhere else that is safer and less congested.

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Sincerely,

[REDACTED]
From: [REDACTED]

Sent: December 8, 2021 9:17 PM

To: Van Rooi, James

Cc: Jeff Mahoney

Subject: Amica proposed development in Ancaster village

Dear Mr Van Rooi,

There is always a feeling that those of us wishing to preserve a true village atmosphere in our places of residence are either against progress or they are 'nimbys'.

However, the historic value and life style which draws people to Ancaster in droves is not built on a desire to live where major progressive development is a primary issue it is the charm and unique appeal of a brief glimpse into an era which was slower, simpler and warmer. A chance to live in a smaller, quieter, more neighbourly environment with local retail, restaurants and pubs where friends meet regularly and there is a feeling of real belonging.

The desire of City Planners to build bigger and better, grasping at financial advantage and improved tax bases, does not apparently consider such idealistic viewpoints..... and yet these old values are the very things which have drawn residents from the big cities and invited young families to settle where the business, stresses and social detachment of the cities don't exist.

Why on earth would any planners want to, bit by bit, eliminate all those elements of desirability and merely add to the apparently inevitable ruination and destruction of our past, replacing it with overbuilt, characterless monstrosities?

The proposed building at the corner of Rousseau and Wilson is appalling. Traffic is already busy in Rousseau but the entrance to Ancaster still remains charming. With a huge, absurdly tall and massive erected building on the corner where the lovely Brandon House was removed- at night covertly- is beyond comprehension. Is Hamilton City Council so completely unaware of what makes their City outskirts attractive ? Is the almighty dollar so vital that the landscape of Ancaster, the first settlement of Hamilton, is to be crushed under the lie of progress?

I am hoping sincerely that this proposal will be deliberated upon with considerably more care and attention than the moving of the fragile Marr-Philippo House from the place where it belongs on Wilson Street.

I am rarely moved or disturbed enough to write with such emotion. Ancaster was a real village when I first came in 1971. Care has been taken by many thoughtful, influential residents since that time to ensure that any new builds fit into the village scene.

Please keep our unique Ancaster village charm and put a stop to such inappropriate and incongruous development as is this above noted proposal.

Sincerely,

[REDACTED]
Ancaster

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From: [REDACTED]
Sent: December 23, 2021 5:48 AM
To: Van Rooi, James
Subject: Amica Development – Ancaster

James,

I'm taking the opportunity to provide a comment regarding the impact of the proposed 7 story Amica development with first floor businesses at Rousseau and Wilson.

Concerns have been expressed regarding numerous very real issues related to infrastructure My focus is on the very real increased traffic this development (?? proposed parking spaces) will add to the immediate (already overburdened and congested) location of Rousseau and Wilson, and will add onto Wilson street as these same cars travel to access goods and services along Wilson (already burdened with increasing traffic-noted in many other traffic reports) and/or to travel up Wilson to Academy or Church streets and add to an existing and very real problem of cut through traffic in the Maywood neighborhood to find additional access in/out of the area to/from the 403.

The suggested roundabout at Rousseau and Wilson won't solve this problem Please note that within the same Ancaster node the following developments have already been approved or on the table for approval also adding to the traffic burdens outlined above- 1. The 6 story, 122 units, 177 parking spaces at Academy and Wilson 2. Wilson Mills, 393 Wilson, 12 townhouses approved 3. 335 Wilson, Notice of change 4. 289 Wilson, 18 units behind Walker Real Estate, approved 5. 223 Wilson, Valery Future Commercial development 6. Valery Condo development on Wilson across from Daly Drive

[REDACTED]

Sent from my iPhone

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From: [REDACTED]
Sent: December 9, 2021 10:30 AM
To: Van Rooi, James
Subject: Amica Proposal, 462 Wilson St E

I love Ancaster and the privilege I have of being a resident here. The heritage of this community is what makes it so valuable. With the loss of Brandon House we now have the unfortunate situation of limited historical buildings facing Wilson Street. This is not a designated area for a retirement /long term care facility, not to mention a structure rising 7 stories high. We need to honour the zoning and Secondary Plan, set forth for Ancaster in 2013. Existing Wilson Street buildings will be dwarfed by this mohemith Amica structure!

An already congested corner at Wilson and Rousseaux cannot accommodate the additional volume of traffic.

Developers are currently constructing a 3 building Retirement/ long term care facility at Southcote and Gulf Link Road, we do not need another facility so closeby, especially on our main Street. Hamilton is so fortunate to have the historical Village of Ancaster. If you want to be part of the community, listen to the community.

Regards

[REDACTED]

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From: [REDACTED]
Sent: December 21, 2021 2:42 PM
To: Van Rooi, James
Subject: 442 to 462 Wilson Street East, Ancaster

December 22, 2021

Dear Mr Van Rooi

I am writing in response to the application for development at 442-462 Wilson Street East, Ancaster, Ontario for a seven (7) storey Amica Retirement Home or a six (6) storey Condominium building. This property is situated at the corner of Wilson Street East and Rousseaux Street which is The gateway to one of the oldest, historic towns in Ontario. The proposed building is completely inappropriate for this specific site as the design of the building is in no way respectful of the heritage and tradition of the Ancaster Village. This is a historically significant site in Ancaster and was a busy meeting and trading location used by the early European settlers and the Indigenous Peoples who lived in this area. Another issue is related to vehicle traffic in the area. This building will lead to increased traffic volume at this already busy corner. Due to the placement of a traffic median close to the intersection of Wilson Street East and Rousseaux Street there can be no left turns at the exit of this building. This will require many of those exiting this building to turn right into Rousseau Street and then use the narrow neighbourhood roads to get back to Wilson Street East. This in turn will require the widening of the neighbourhood roads to make them safe. Who will be responsible for widening these roads, the developer or the City of Hamilton (That is the taxpayers)?

I am also very concerned about the services in this area and the existing problems we are currently experiencing with raw sewage flowing into the adjacent creek and the potential for contamination of the water supply.

Finally, due to its size, this will have a profoundly negative impact on the daily life of those living in Ancaster Village while it is being built and in the future. The development is completely inappropriate for this site and the application must be denied by the Planning Department of the City of Hamilton.

Yours truly

[REDACTED]

Sent from my iPad

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From: [REDACTED]
Sent: December 9, 2021 10:15 AM
To: Van Rooj, James
Cc: [REDACTED]
Subject: The proposed Amica development in Ancaster

James, hello.

I see your current role as a City Planner is predominantly in land development and growth. I read, also, that you are from Barrie. I assume, therefore, you have a healthy respect for environmentally sound planning for land development, considering your lived experience with the impact of expansion and the recognition of the importance of the preservation of rural/agricultural lands and heritage of communities affected.

I also read that Jason Thorne, the City's General Manager for Planning and Development has emphasized a 'robust program' that includes designation and preservation of heritage buildings for the arts, culture and history of the city. Inasmuch as Ancaster is now part of the amalgamation with Hamilton, i would hope this commitment will be honoured as aggressive development plans are well underway here.

I contact you, James, to express concern and, in fact, outrage about the intended construction of Amica at Rousseaux and Wilson, a huge development affecting not only existing land space but the surrounding land, people and environment.

From a practical perspective, the massive structures planned for the demolished limestone Brandon House site will have a significant collateral impact on traffic, population and mobility. An entrance/exit on Rousseaux will complicate an already busy area leading to the intersection with Wilson Street (#2 hwy).

Also consider noise created by the increase in traffic volume, garbage and recycling management, increase in lighting required: all adding to a less than desirable situation. A potentially horrible situation, in fact.

From the perspective of Ancaster's heritage, the demolition of Brandon House was shocking. It had immediately and rapidly preceded (the day before!) Premier Ford's formal announcement to cease all construction because of the imposed Covid lockdown of early 2020. It has caused tremendous upset, sadness, anger, a lack of faith in our political leaders and a sense of betrayal to the people and the very fabric of our village's history.

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The eastern entrance to Ancaster at Rousseaux/Mohawk and Wilson has for decades been a tree-lined, residential, welcoming one, a gentle welcome to the village. Over the decades, businesses have taken over private homes and small family owned businesses all along Wilson Street. Commercial development now has completely changed the tone, the pace and the sense of place that was the village.

However, growth and the accompanying changes are inevitable. Judicious and respectful, informed decisions determined by City Planners such as yourself inform and significantly influence the decisions of the politicians elected to work on our behalf, the citizens of Ancaster.

The decision to support a huge Seniors' residence complex like Amica is horrifying, causing outrage and tremendous resistance by many of us who demand preservation not only of the buildings, part of the heritage of Ancaster but also respect for the environment. The Amica development will continue the apparent disregard of both.

If Amica develops this huge complex at this location, regardless of amendment to size and height (SIX storeys?!!), it will have a significant impact on the very nature of the Ancaster community.

Please use your experience and a consideration for the people who live and have lived here for decades, many, like mine (Clifford/Milne/Farmer) go back to the mid 19th century. Please stop this development. Get beyond the notion of growth and expansion that will change and destroy the spirit of Ancaster and its history.

Let your name not be associated with such disregard. Uphold the expressed commitment to history and heritage.

I fervently ask for your support.

Stop this Amica development at this location.



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From: [REDACTED]
Sent: December 9, 2021 11:51 AM
To: Van Rooi, James
Cc: [REDACTED]
Subject: Ancaster citizen complaint Re proposed Amica or condo build on 462 Wilson Street East site 2691893

Good Morning,

I'm writing to you regarding the proposed building site GSP Group (2691893) at 462 Wilson Street East in Ancaster. The Amica retirement proposed site that is out of compliance for both scale and use in this zoned area.

There will be a huge out-roar from the residence of this quaint town that does not by any means want to be turned into Hamilton west. Would such behaviour in building code negligence ever take hold in Niagara-on-the-Lake ... I think not!

Should this be pushed through myself and plenty of Ancaster residents will seek to have our taxes match those of Hamilton because in essence that is what we are now becoming ... Hamilton West.

If blatant disregard for Ancaster is going to continue we will start a petition for a reversal of the amalgamation. Also we will seek a councillor(s) who will help to protect and save the historic charm that draws visitors and its residence alike.

Lest we forget we are in the heights of a climate EMERGENCY, let us not be foolish and move forward without listening to the science experts regarding any new builds and the effects on the surrounding area. This is why the world is in the emergency state today is because the scientific evidence and citizens were ignored. Please stop thinking in terms of dollars and not sense.

We do not need two giant retirement establishments within a short distance of one another in such a tiny town. The roads here are already over burdened in rush hour or a wreck off the 403. It becomes a back logged nightmare without adding the heavy burden these large scale businesses will add.

Truly Concerned Residents,
[REDACTED]

Sent from my iPhone

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From: [REDACTED]
Sent: December 8, 2021 10:57 AM
To: Van Rooi, James
Subject: Amica application @ Wilson and Rousseau Streets

Hi James

I am writing as a long time resident of Ancaster since 1977 and am against this project.

Impact on traffic will be horrific on this already congested corner.

The elevation and height visibility entering The Village on Wilsons incline will be an ominous eyesore.

Setbacks and retail underneath are a must as we see in Aldershot to make out downtown work.

Better restrictions to how facades should look need to be approved and controlled to conform to our Unique Village Historical theme.

Height restrictions need to be absolutely maintained to current 3 Storey. This will set a dangerous precedence if approved and there will be no turning back by developers that live here but care nothing about how Wilson Street reflects our History.

I am not against growth and new structures but strongly encouraged a moratorium on building on Wilson like Burlington has done on Brant and Lakeshore to stratigize a long term plan for what is best suited for the retail and residential landscape along Wilson proper.

Quick passage of this horrible structure will swiftly end a lot of political carriers in its wake next election.

There are a lot a angry people that are rallying to save the Town we live in.

Respectfully

[REDACTED]
[REDACTED]

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[REDACTED]

Sent from my Galaxy

From: [REDACTED]
Sent: December 15, 2021 10:42 PM
Fw: Response to Application for Amica/condo development at 442-462

The second pdf is the map of the topography of the slope of Wilson Street - including the sidewalk - beside this development. The slope on the hill is 5.71%. The allowed slope for such a development is 2.5%. Being more than twice the maximum standard, the street there is hazardous for both pedestrians and traffic. It is anticipated that frail seniors - many with mobility and cognitive challenges - living in either the Amica building or the condo development will be navigating this street.

The third document maps the route of the sewage wastewater pipe, which will carry the effluent from this development down the escarpment to the pumping station in the valley below on Old Dundas Road. From there it will be pumped back up the escarpment to Rousseaux Street in a force-main pipe, and travel to the Woodward Avenue Treatment Plant in the east end of the city. This sewage transportation system does not appear to have the necessary capacity to do the job (see the report for more detail). As you may remember, during this past summer the basements of homes in the valley near the pumping station were flooded with sewage, and the Councillor advocated for an outlet relief pipe into Ancaster Creek. Now we understand why a little better.

There is also a section in the review on traffic, with some suggestions about issues and the need for further data on collisions, personal injuries, traffic violations and delays to first responders such as fire and paramedic, none of which is included in the developer's Traffic Report. If you want to use this critique to form your own comments, please do so.

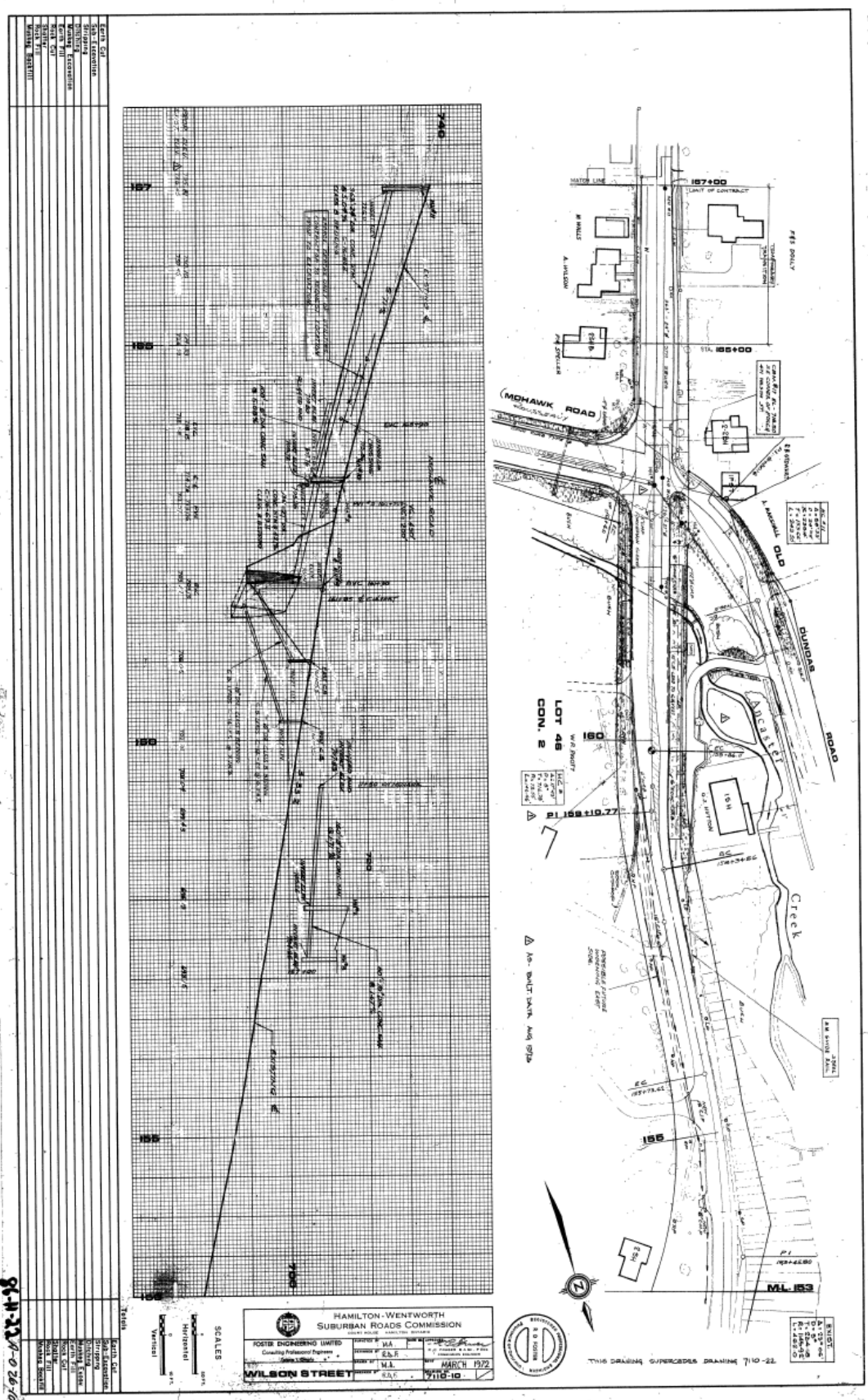
Living in town since 1977 we see the impact traffic has on this corner now and it is past its maximum load of traffic for such a irresponsible project to even be considered.

Against this project like most other people in Ancaster

We are fed up with the city not listening to what they were voted in for and we won't put up with this pandering to rich Ancaster developers next election if current bylaws are not adhered to.

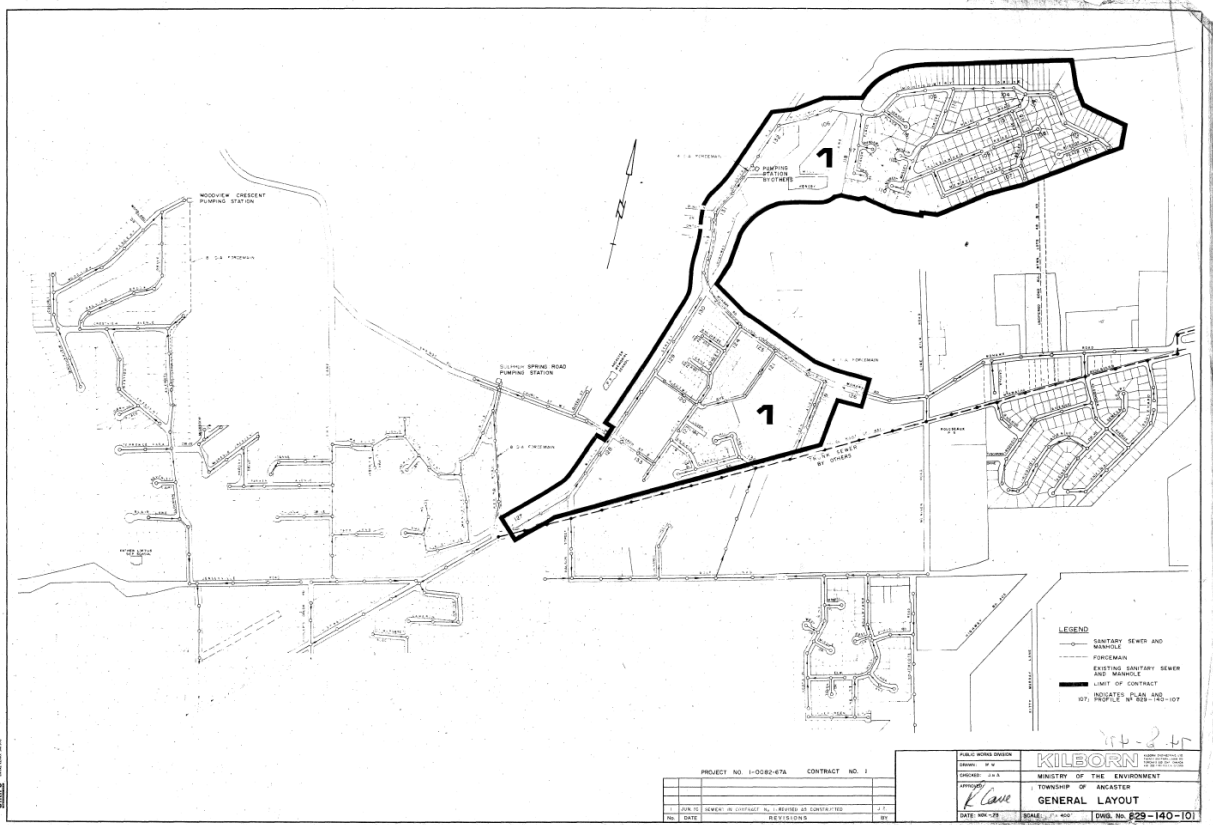
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84-H-22-0-26-10

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envis

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PUBLIC WORKS DIVISION	KILBORN ENGINEERING
PROJECT NO. 1-0082-MTA	MINISTRY OF THE ENVIRONMENT
CONTRACT NO. 1	TOWNSHIP OF ANCASTER
DATE: MAR-08	SCALE: 1" = 40'
BY: <i>K. Case</i>	DRAW. NO. 829-140-101

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From: [REDACTED]
Sent: December 13, 2021 12:07 AM
To: Van Rooi, James
Subject: Proposed Amica development - corner of Wilson Street/Rousseau Street in Ancaster

Dear Mr Van Rooi

I'm responding to your request for public opinions before Dec 23 regarding the above proposed development by Amica for a retirement home on the corner of Wilson Street/Rousseau Street in Ancaster or failing that application, a six storey mixed used building including 161 units.

As a resident of Ancaster, like most residents, I was appalled to see the Brandon House torn down last year, a property that was deemed the Gateway to Ancaster, a fine example of period stone architecture. I was even more aghast to see what was proposed on that site when I attended a virtual meeting held by the developer. The rendition put forward to Hamilton Planning is just so totally out of character for the village of Ancaster, it goes against everything that has been set in place in 2013 to protect the development of the village, as set out in the Ancaster Wilson Street Secondary Plan. A 7 storey building, in an area zoned for a maximum of 3 storeys is not ok. Furthermore, the zoning does not permit a retirement home to be built in that location. We already have quite a few large retirement homes in the town, with another large development already underway on the corner of Southcote and Golf Links Road. The need for such a building in such a location is totally inappropriate. That corner is already heavily congested throughout the day, there have been many proposals to improve traffic flow in that intersection because of the intensity of traffic with long line-ups particularly during rush hour. Both options for that corner seem totally inappropriate height wise for the beginning of a heritage village. Both options will inevitably create more traffic, from the perspective of the retirement home from visitors, deliveries, workers and from the condo perspective, 161 units will mean more cars in an already difficult to maneuver intersection. As the current focus is on the Amica retirement development I will emphasize that this location is totally unsuitable for such a large imposing building. Such a building would be more suited at the other end of town closer to Walmart where all the new infrastructure is in place and growing to serve that community. The Wilson/Rousseau St intersection is difficult enough to navigate when trying to cross to catch buses so would certainly not be pedestrian friendly for elderly residents.

I truly hope Hamilton City Planning can come to their senses and not give in to developer's wants but to respect the zoning bylaws in place for a reason. There is so much potential to create a streetscape that we can be proud of, that respects Ancaster's heritage and to seek developers who will sympathetically create a vision in keeping with that history. Other towns such as Dundas, Grimsby and Niagara-on-the-Lake have managed to preserve their heritage and kept their downtown cores respectfully within permitted guidelines and have built larger properties such as this proposed Amica retirement home on the outskirts of their towns. We need to do the same and not let Ancaster heritage village become awash with overly tall buildings sprawling along Wilson Street.

This is not something that should be rushed through at the eleventh hour. I hope that you will take note and listen to the public, residents that live and work in Ancaster, that are so worried that the vision before us is something likely to destroy Ancaster. It's ironic that we have a residential Monster Home

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Bylaw in Ancaster yet are accepting proposals from developers wanting to overbuild commercial properties. Senseless!!!!

Regards

[REDACTED]

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From: [REDACTED]
 Sent: December 22, 2021 10:03 AM
 To: Van Rooi, James
 Subject: Brandon House Site

With regard to the Brandon House Site/Proposed Amica Compound:

1. They have stated that this building is ‘Special’ because they will use the reclaimed stone from the Brandon House. How is this “Special?” Anyone can get reclaimed stone/brick, and no one will know or care from where it came.
2. They say they have gone to “Great Lengths” to be thoughtful of the ‘GATEWAY FEATURE OPPORTUNITY,” as that’s how it has been designated. This tells me they’re just taking advantage of this label to sell the city counsellors on the idea that they are being thoughtful; while they suck as much income as they can from this site.
3. It’s setback 3 meters from the sidewalk and 8.2 meters into the ‘Courtyard Facade’ to promote a desirable public/pedestrian openness/welcoming. That monstrosity is the most unwelcoming building I have ever seen!
4. The front entrance; which I will add, seems to be more on Rousseaux Street than on Wilson Street, which likely has different rules/bylaws (Oh wait, builders don’t have to adhere to bylaws. I forgot.) than if it’s fronting onto Wilson; ‘speaks back to the village’ with its arched main entrance in only 3 stories to help ease it into the community. How does it ‘speak?’ Is it supposed to be trying to hide the 7 stories behind it?
5. The site is “UNIQUE.” How many times have we heard that?
6. The retaining wall will remain in front of the Montessori building to interact with the public, so that the larger building will FADE into the background.....not sure how you can say a 7 story building will FADE into any background. How does a retaining wall help people to interact?
7. They will ‘grade the land in a sensitive manner so that it will be a cohesive place for the residents of Ancaster to congregate. Along with the appealing water feature to emulate the waterfalls in the area and promote a gathering area near the front door.’on the busiest intersection in Ancaster?
8. They say they have gone to Great Lengths to address a nice experience for pedestrians, but when asked about it being an unsafe place because of the intersection, they basically said, ‘well Amica will deal with that.’
9. They said, ‘Amica is selective and wants the best site, in the best community. Amica accomplishes less traffic and less noise.’ Really? How do they do that?
10. ‘Amica is the Bentley in LTC and it checks the boxes of concerns in the community.’ Not so far!
11. ‘It has a secondary mixed-use plan and will listen to the community.’ Again, not so far!
12. The proposed building has only 1 parking space for every 3 residents. This means more parking on the narrow (and soon to be more used) neighbourhood streets. These are some of the community concerns NOT addressed yet.
13. They have listed the courtyards at the back as being ‘Animated Spaces,’ (Will we see Mickey Mouse and Donald Duck?) so that the residents can see Life and Nature’but they’re cutting down all the trees!

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The bottom line is.....The developer has bought this land knowing that the height limit is 9 meters/2.5 stories. He's asking for 7 stories and is likely hoping to get 5, but I say, "You knew the height bylaw when you bought the land, and if you say, 'Well it's not economically Viable if I don't get what I want.' Then I say, "You've made a bad investment."

Sincerely,

A solid black rectangular redaction box covering the signature area.

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From: [REDACTED]
Sent: December 23, 2021 10:57 AM
To: Van Rooi, James
Subject: Proposed proposed Official Plan and Zoning by-law Amendment applications for 442 – 462 Wilson Street East
Attachments: Amica proposal comments submission.odt
Dear Mr. VanRooi;
Please find attached my comments on the above-noted proposal.
[REDACTED]

Mr. James VanRooi, Urban Planner
City of Hamilton
71 Main St W
Hamilton, ON L8P 4Y5

December 22, 2021

Dear Mr. VanRooi;

Re: Proposed proposed Official Plan and Zoning by-law Amendment applications for 442 – 462 Wilson Street East (the "Site"):

This letter provides my initial comments regarding the above-noted submission and supporting documents, in response to the City's invitation to comment.

First, I support fully the remarks of Dr. Maton on behalf of the Ancaster Village Heritage Community in relation to the various issues he raises, including:

- heritage
- the existing community landscape, structure and functioning.
- Safety and emergency services
- traffic
- servicing.

The incompatibilities and non compliances with the Ontario Heritage Act, Secondary Plan and Provincial Policy Statement (PPS) are numerous and significant. Surely the sheer number and significance of the variances and exceptions to current policy that this plan(s) require would make them as submitted nonviable without substantive re-design? Without re-iterating Dr. Maton's specific remarks, my comments below highlight some of the traffic and servicing concerns in a broader context.

Second and inter-related, the existing constraints associated with the site conditions and its location are either not recognized or are not properly considered. The significant slope across the site, grading and

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construction management, drainage management including outlet to a coldwater stream, Ancaster Creek, immediately downstream of Rousseaux Street all present significant challenges.

In addition to stringent site management and substantive modification, these site characteristics require consultation with external agencies such as Hamilton Conservation Authority (HCA), Ministry of Environment, Conservation and Parks (MECP), Ministry of Natural Resources and Forestry (MNR) and possibly the Niagara Escarpment Commission (NEC). Permits will be required at least from HCA and MECP.

Third, I'm aware of the City's approach is to evaluate development submissions on a site-by-site basis, however I think it is appropriate to consider so large a development proposal in a broader context. As outlined below, the Provincial Policy Statement requires this specifically in relation to infrastructure and servicing among other things.

Specifically, existing infrastructure limitations should be explicitly stated and quantified, and then integrated more thoroughly into the assessment of the implications of the proposed development. A clear understanding of the capacity and lifecycle of the existing infrastructure is not presented in the technical reports, weakening the assessment of further demands flowing from the development. Defaulting to the secondary plans designation of the site for Mixed Use-Medium Density to assess impacts of the proposed development on traffic and servicing is not appropriate if the existing infrastructure is already at or over-capacity.

The fact that many of the guidance and planning documents are dated is worth noting and has a bearing on the assessment of impacts of the proposal. Finally, there are several other provincial policies that address current site issues that warrant consideration in the assessment of the implications of the development. Key among them is climate change.

Project Rationale:

The proposed development plan(s) is ambitious to say the least. The domineering presentation to the public with statements like its either one plan or the other is not appropriate. The rationale that the development is not viable economically unless it is approved as designed with all of the requested variances and policy amendments is not remotely defensible. The 'sneaky' destruction of the iconic Brandon House and the bullying 'done-deal' presentation attitude are not a good start toward engendering community support for the proposal(s).

I may have missed it, but it does not appear that the submissions clearly identify **need** for this development. Particularity in light of the massive retirement and care home being built at McNiven and Golf Links, a clear assessment of need appears warranted.

Dated guidance documents:

A simple illustration of the urgent need to update current planning documents **before** any new development applications are approved: The *Ancaster Transportation Master Plan* was prepared in 2011. The population of Ancaster used at the time of the study in 2006 was 33,170. The projected population for 2011 was 36,000, and for **2031** – the planning horizon of the study – **39,000**. The **current** population of Ancaster as of November **2021** is **40,557**.

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It is also worth noting that many of the recommendations in that dated study – including the need to address the Wilson Rousseaux intersection – have not been addressed, and interesting that the City did not initially identify a traffic study as being one of the study requirements for the proposal.

The guidelines and policy documents referenced in the Functional Servicing Report (FSR) are also dated:

Ref. 1: MOE Stormwater Management Practices Planning and Design Manual (Ministry of Environment, March 2003)

Ref. 2: City of Hamilton Storm Drainage Policy (2004)

Ref. 3: Erosion & Sediment Control Guidelines for Urban Construction (December 2006)

Ref. 4: City of Hamilton Criteria and Guidelines for Stormwater Management Infrastructure (September 2007)

Ref. 5: Engineering Guidelines for Servicing Land under Development Applications (City of Hamilton, December 2012).

Although many of these documents have not been updated, current and state-of-the-art practices have continued to evolve over the years and should be more explicitly recognized. There are more current Erosion and Sediment Control Guidelines in wide use provincially (e.g., TRCA/CVC Manual). In all cases, the recommendations of these guidelines also require updating and modifying to reflect the climate change.

Comprehensiveness of guidance documents as a basis for assessing impacts of the proposal:

The *Ancaster Transportation Master Plan* is just that – a master plan. It presents motherhood objectives and general recommendations, addressing the Level 1 and 2 requirements of the municipal *Class Environmental Assessment* (Class EA) process. Proper assessment of implications of development on infrastructure – including transportation, servicing and stormwater management – requires completion of the five process phases. Phase 3 looks at actual implementation of the preferred solution, and is critical to assessing the implications / impacts of new development and intensification on existing infrastructure.

The Wilson Street Secondary Plan in the City's Urban Official Plan and amendments are not comprehensive implementation documents. The preferred development alternative is presented and development designations mapped, however there is no assessment of its impacts or identification of required mitigation measures and specific site plan level studies (other than for Area A). Most importantly, there is no cumulative assessment of the impacts that would result from implementation of all of the designated development.

I appreciate that it is not the role of the developer's consultants to update and detail the City's guidance and policy documents, although they are well aware of proper, current planning and design standards provincially. These standards and requirements should be recognized and used to plan, design and assess the development. It is the City's job to ensure a development proposal of this scale is assessed properly considering existing conditions in this area of the town. The concept of assessment of cumulative effects does not appear to be foremost in the City development planning realm, however it is a long accepted requirement provincially and federally and embodied in good planning.

Basis of comparison / assessment of impacts:

Both the traffic study and the FSR use the current zoning (Mixed Use – Medium density) and the standard density this designation allows as a basis for assessment or comparison of traffic and infrastructure impacts of the proposal. It is too simplistic to just fall back on the Mixed Use-Medium Density designation of this area (and the majority of the Wilson corridor through the town core) as a permitted baseline and basis to assess impacts of the development. The presentation of the impacts of their proposal as being lower than those of the type of development and density 'allow' under the designation is inappropriate if those impacts are unacceptable because the current infrastructure constraints are not considered.

The existing infrastructure capacities need to be clearly identified in the technical reports. Comments below are relevant in relation to the PPS requirements. As Mr. Maton details in his submission, the recent sewage back up into residences on Old Dundas Road would suggest an existing wastewater system capacity issue *now*. It is *not* appropriate to consider direct discharge into Ancaster Creek when flood events occur (not the least because this contravenes provincial and federal legislation). Nor is it appropriate to burden taxpayers or those downstream residents with future incidents and upgrades/expansions as a result of new development.

The Traffic Report does recognize the critical constraint at the Rousseaux/Wilson Street intersection and the already significant cut-around issues through Lodor Avenue. As noted, this intersection capacity issue has been well documented since the Master Plan study in 2011. Their recommendations for consideration of changes to the light timing mechanism and traffic slowing measure through the Mayfield community are a good first step. However it is not clear whether these solutions are actually implementable and how well they might work. Arguably, these solutions are already long warranted to address current issues without adding further to those issues. The implementability and effect of these possible solutions in addressing the current issues requires assessment *before* contemplating approval of a plan that *will* compound the existing problems at whatever level of additional traffic and water system burden.

As Mr. Maton describes, the right out only solution may help to alleviate additional burden on the intersection, however it only pushes trips back into town right up through the Mayfield community that is already facing this 'cut-around' issue.

The broader traffic constraint that is left unmentioned and appears to be ignored in all the the City's planning documents is that **Wilson Street is a major constraint to almost any new development in the town**. It remains the only link through the length of the town. Traffic cannot get in or out of town without traveling along it, without taking winding, local roads through the escarpment into Dundas. It serves as a 'service road' for Highway 403 during accidents. Emergency services must move along it. Any additional traffic burden presented by any new development requires assessment in the context of these limitations.

Projection of numbers in isolation:

I cannot comment on the accuracy to the demand numbers presented by traffic study and FSR, other than to note that the estimated 13 and 39 trips in and out of the facility in AM and PM peaks seem a bit low. Regardless, the forecast numbers are only estimates. Those numbers and impact generation should

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incorporate some level of “sensitivity analysis” and “contingency” planning. Even if accurate 'averages', they will occur within a broader range of trips, the upper end of which should be recognized and planned for. Further, underlying conditions and assumptions might vary from those used in initial projections; incorporating sensitivity analysis would address some of those uncertainties. The comments below regarding climate change are a case in point regarding known condition changes.

Again recognizing that the City does not appear to promote comprehensive consideration of development in favour of site-by-site review, it is simply responsible planning and design practice for a proponent to consider the broader setting and characteristics of the project site. **The impacts of a single development are rarely fully contained; one of this scale and massing will have far ranging implications on the surrounding area and already heavily burdened infrastructure.**

Maintenance and monitoring:

Monitoring throughout and following construction is a standard tool used to manage development and prevent or remediate potential impacts. Monitoring also provides a level of comfort to approval agencies and the community that impacts will be managed at an acceptable level. These measures need to be integrated into the assessment reports now or at least recognized as pending in subsequent submissions. The monitoring plan may not be required at this stage of review, however **a clear commitment to develop a monitoring plan and a summary of the aspects it will address should be included in the submission and various technical documents.**

A **more comprehensive erosion and sediment control plan** incorporating monitoring and reporting measures needs to be developed at the appropriate stage of plan review, well prior to approval. The slope across the site, extent of grading for underground parking and stormwater tanks and coverage of the site will make erosion and sediment control challenging. The consultant will know this, however specifically describing and recognizing these site conditions and associated requirements in the recommendations would be provide some assurance that they will be addressed properly.

The FSR notes that the **oil/grit separators and filters require regular maintenance.** This maintenance requirement has long been a concern to their use since maintenance is very often lax. They don't function well if at all without maintenance. There is no back-up. While it may not be appropriate to set up the necessary maintenance / monitoring schedule and responsibility plan at this stage, the need for one needs to be recognized and incorporated as a recommendation for detailing at some stage prior to approval (e.g., as a condition of approval).

Other relevant policy:

Among other provincial and federal policies, the Provincial Policy Statement (PPS) clearly identifies the need to integrate **climate change** into current community planning and infrastructure design (S 1.1.1i, S 1.6.6.1). MECP has a range of similar policies. The implications of climate change should be very obvious to anyone making decisions after the past year if they weren't before. The Old Dundas Road sewage back-up is a clear local example. Climate change considerations have a major bearing on site servicing and stormwater management at this site (and elsewhere), as well as on grading. Yet, the FSR (and the planning documents) does not mention climate change.

Building on comments above, **the assessment of the impacts of the development on existing infrastructure require a current and thorough understanding of existing conditions and infrastructure**

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capacities, culminating in a statement of existing limitations. This assessment requires integration of climate change considerations. Storm events are larger and more intense and frequent than they were historically; if the historical patterns remain the basis for current modeling, planning and design as appears to be the case, this needs to be rectified.

Are the stormwater tanks and discharge system being designed to accommodate runoff from the current and future storm regimes? Is the stormwater discharge system connected to the waste water system so that waste overflows can occur with large, high intensity storms as they do now? Increased frequency means storms may occur close together or back to back, providing insufficient time to drain the stormwater tanks and pipe / pumping systems. Is there sufficient capacity to accommodate this likely scenario?

PPS policies such as 1.1.1 g) require ... “that **necessary infrastructure and public service facilities are or will be available to meet current and projected needs**”. 1.6.1 “**Infrastructure and public service facilities shall be provided in an efficient manner that prepares for the impacts of a changing climate while accommodating projected needs**”. It is not clear from the submitted technical reports that this is the case. Again, the FSR does not mention climate change. Nor do the City's guiding planning documents see to recognize these requirements.

The capacity of existing infrastructure and servicing to meet **current needs** needs to be demonstrated before contemplation of any additional development. As this does not appear to have been done, it needs to be done now, and then the **projected needs** can be assessed to demonstrate that there is remaining capacity to meet those needs. Again, those assessments need to integrate specific consideration of the impacts of climate change and future uncertainties.

Stormwater, following treatment and control, is to be released to the existing swale along the east side of the site, which flows directly into Ancaster Creek, which is within the Niagara Escarpment Plan Area boundary. The location of the swale and its drainage area in relation to the adjacent property owner requires specific recognition. Climate change and contingency planning need to be specifically considered in relation to the design and management of this discharge to the swale and Ancaster Creek. Periodic overages etc. are not acceptable, particularly given the coldwater status of the stream and its sensitivity to further impact, and its location immediately adjacent to Rousseaux Street).

The impacts of uncontrolled runoff discharging to the stream are long evident throughout Ancaster Creek. Trout Unlimited's heroic attempts to repair damaged habitat are already challenged by ongoing impacts. The federal Fisheries Act, Hamilton Conservation Authorities regulatory policies and provincial fisheries and habitat protection policies all protect the stream and its habitat and fish from further damage.

AS noted, consultation with these agencies will be required at some stage of the design and permitting process. **These agencies require recognition in the technical reports. Anticipated future permit requirements**, at a minimum from HCA and MECP, also require recognition in the reports.

The PPS (1.6.6.1) that “Planning for *infrastructure and public service facilities* shall be coordinated and integrated with land use planning and growth management so that they are:

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a) financially viable over their life cycle, which may be demonstrated through asset management planning; and

b) available to meet current and projected needs”.

1.6.6.6 states: “Subject to the hierarchy of services provided in policies 1.6.6.2, 1.6.6.3, 1.6.6.4 and 1.6.6.5, planning authorities may allow lot creation only if there is confirmation of sufficient *reserve sewage system capacity* and *reserve water system capacity* within *municipal sewage services* and *municipal water services* or *private communal sewage services* and *private communal water services*. ...”.

Addressing these requirements in their review is the City's job, however the proponent and their consultants need to recognize these requirements in their analyses.

The PPS (1.6.2) also recommends that planning authorities promote green infrastructure. I may have missed references in the technical documents, however if not, appropriate techniques should be considered to offset at least some of the density and imperviousness of the plan.

In summary, someone who knows this site and was shown this plan without prior knowledge would very likely find it astounding that it ever saw the light of day:

- The number of non-compliances with City and provincial planning policy alone would support this conclusion.
- Using the density allowed by the Mixed Use – Medium Density planning designation to suggest the design and its traffic and infrastructure burdens are acceptable is irresponsible.
 - That it could in any way be argued that any additional traffic is acceptable at this site is astounding to anyone who drives through this area, or cuts around it through the Mayfield community.
 - That the proposed sewage and stormwater systems will address management of wastewater and runoff effectively without effects on the current systems is highly suspect given current issues. Climate change is not even recognized, let alone planned and designed for.
- It can be argued that the implementation of the PPS and other relevant broader policies is the City's role in reviewing the proposal. However, the technical reports would be vastly more acceptable if requirements were incorporated into their analyses or at least recognized as commitments for assessment at the next stage of the proposal. Ultimately the City needs to do their part, relying on technical review and without letting politics and City coffers dictate approval.
- The report recommendations need to recognize future requirements, including agency consultation and anticipated permit requirements, and that more detailed analysis, management and monitoring plans required to fully defend the proposal will be developed. A series of commitments for completion in the future is a standard of a good planning and

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preliminary design submission. Some careful consideration as to whether all of these requirements can ultimately be met would be wise, now.

Yours truly

A solid black rectangular box used to redact the signature of the sender.

(local long time resident)

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From: [REDACTED]
Sent: December 22, 2021 11:00 AM
To: Van Rooi, James
Cc: admin@saveancaster.om
Subject: Amica on Wilson St. Ancaster

I am writing to express my displeasure at the possible prospect of permitting the proposed Amica development on Wilson St. In Ancaster.

I grew up in Ancaster in the 1950s and 1960s on then Highway 2 and currently live on Wilson St. There is a character in the village fashioned by the old buildings and long history of the area. Over the years the planning departments have preserved this character by limiting the height of new developments to about 9 meters. The proposed building is significantly higher. The approval of the new height as a result of rezoning, would open the gates for all developers to use the increased height. Small high rise buildings are not in the character of Ancaster.

There is clearly opportunity for increased urban expansion in Ancaster. Such opportunities do not, however, need to be undertaken through significant rezoning permitting the destruction of the character of Ancaster. It would then be a case of the community abiding by the developer desires, rather than the developers abiding by the community desires. Evidence of community desire was recently expressed in Hamiltons urban expansion comment solicitation. The planners and developers need to listen to the community.

The proposed development would certainly add to the traffic in that area - an area that is not particularly designed to handle an increase in exit traffic - left hand turns to Wilson St .W. would become most problematic. Wilson St. E. is now very heavily used and with further urbanization just along Wilson St. W. the congestion can only become worse. What plans are in place in the coming years for the resolution of this traffic congestion? Heightened building codes can only escalate this issue.

I can only assume that the sewage and drainage infrastructure in the area are sufficient to handle the increased load of a large seniors residence. I clearly recall the effort required to add to the sewage infrastructure down Wilson St. W. to accommodate the inadequate planning done during the development of the Ancaster Industrial Park off Tradewinds Dr. - a clear case of accommodating the developers and desire for additional tax revenues while leaving the costs of correction to subsequent administrations.

The removal of the older trees on the property would be most unfortunate. Understandably a couple would need to be removed for buildings but to remove all as per the plan is excessive - again it would be

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for the developers convenience. I would compare the site to that the one on GolfLinks Rd and Southcote Rd where the property has been essentially clear cut. The ultimate planting of a few new trees does not compare. The move of the existing old building will most likely be destructive in nature - studies of that are underway. Again the character of the village is being put at the back rather than the developer using the existing and working to incorporate it. The buildings across from St Johns Church, while new, have incorporated the character of the village - a pleasant sight.

I sincerely hope that the development can be restricted and incorporate the existing character of the area such that Ancaster continues to be a more modern version of the old village.



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From: [REDACTED]
Sent: December 17, 2021 1:11 PM
To: Van Rooi, James
Subject: Against Amica/condo application Wilson and Rousseau Street

Dear Mr. James VanRooi

I hope this email finds you well and you and your family are healthy and happy during this festive time of year. I am writing in regard to Ancaster, a town over 200 years old and receiving its official name in 1793. I believe this town deserves more from our elected officials and municipal members. Its' history from then until now is rich and unfortunately being lost due to poor planning and what appears to be greed and corruption. I am opposed to the application put forth by 'Amica' at Wilson and Rousseau Street in Ancaster. Anyone who has any interest in Ancaster would be. The reasons are multiple and include, current zoning, traffic, infrastructure, heritage, need and overall respect for the town and people within it.

To start and most simply, height limits are currently 2.5 storeys and this plan is for 7 storeys. Today and in the future no proposal above this should be considered, period. I consider this to be obvious with no need for explanation or reasoning. Secondly the area is not zoned for retirement homes nor is it an appropriate location for one. In their last meeting, Amica suggested that it is a great location because it is close to the village core and inhabitants can easily access such core. They have not been thoughtful to the audience they are trying to manipulate. The majority of the people that would acquire such a living space, either fully capable or not, would have great difficulty getting up that grade to get to the 'village core'. The allowed slope for such a development is 2.5% and the slope here is 5.71%. My father is in a wheel chair with severe dementia and I know I would never be able to push him up that hill even if I exit from the rear of the building. The thought of getting him in a car just to take him ~50 meters away to Tim Hortons or the new and exciting arts centre is ludicrous. Further to that, this is a very busy intersection and to have

so many pedestrians trying to navigate the area is dangerous at best. On that point, it clearly demonstrates Amicas lack of interest and understanding of the people they plan to provide a safe haven to as well as the people of the town. Thirdly, no expert is needed to determine the road cannot handle it, in both pedestrian and vehicle traffic as well as drainage. Either the retirement home or the secondary condo development they proposed will most certainly cause traffic overload and I don't need a study to tell me that. I drive this intersection everyday at 830 and 530 and without fail it is consistently backed up and frustrating (certainly not has bad during COVID, when a study may have been done, but I haven't forgotten). On top of the obvious issues, sewage and drainage are most certainly on everyones radar given the current issues homeowners in this area are already being faced with. Having basements full of sewage due to an overzealous, poorly planned and egregious proposal is not acceptable. Finally and with distinctive importance, neither of their proposals are in keeping with the heritage of Ancaster. The Ancaster Secondary Plan requires that new buildings conform to a heritage architectural style. This has already been done well with several of the 'new' builds along the village core, including the Baracks and the corner of Halson and Wilson St., Bravo to this builder. Using appropriate brick and mortar, windows and doors is important to the keeping of a town and its history and intrigue. The most recent building placed directly in the view of locals enjoying good food and drink at the 'Blackbird', formerly Rousseau House restaurant are now forced to look a building that pretends to fit in but does not and I don't want to see that happen again. It is embarrassing and a delinquent reflection of developers interests and illustration of the apathy among our elected officials and city planners. If developers had some sense they would know and respect the importance of heritage. Perhaps advise the developers to create a vision in keeping with the current bylaws/zoning and the atmosphere of this town. Please take all comments with sincere and thoughtful interest and understanding when you and your colleagues develop your report.

Thank you



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From: [REDACTED]
Sent: December 9, 2021 6:26 PM
To: Van Rooi, James; admin@saveancaster.com; Ferguson, Lloyd
Subject: Decline Amica's proposal: Letter from Residents

To The City of Hamilton

From Residents of Ancaster: [REDACTED]

We want you to use common sense and say "NO" to Amica's proposed development for Wilson and Rousseaux in the town of Ancaster. We both commute to work and experience the congestion that currently exists. We already must leave extra time in the morning to get through this area and rush hour in the evening is awful as well. Many times, we take Academy as an alternative to avoid the congestion and get onto Rousseaux. Imagine what Amica's development would do to the traffic congestion! It's not fair that those residents must deal with overflow NOW with the way things ARE and it would be horrible for that neighborhood to have to deal with this proposed mess of traffic.

Our parents are all living. They are ages 93, 83, 81 and 80. No way would we suggest that any of them buy into a building this size, in this location. It's dangerous to put slow moving people at the corner of a busy intersection. By the way, in cases where residents don't drive, where will the DARTS busses be stopping to load and unload? They leave their engines running and that means more neighborhood pollution.

Now for the reasons we moved here in the first place. We have always loved the small-town appeal of this village of Ancaster. That's why we settled here. Currently the 3-storey limit seems to be working in some areas although even that takes careful planning. 6 or 7 storey buildings would darken the streetscape. Currently the sun shines on the street in the mornings, in this area. With the

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proposed building height, the street would be darkened until noon when the sun is directly overhead. Yuck.

Just decline the proposal. And do it on our behalf. Because we are the people who live and work here, and we don't want Amica's huge buildings in this location. Use common sense. Tell them to build somewhere else that is safer and less congested.

Sincerely,

From: [REDACTED]

Sent: December 8, 2021 8:01 PM

To: Van Rooi, James

Subject: 462 Wilson St E—Amica Development

Hello James,

I have recently seen the plans for a very large retirement home located on the grounds of the old Brandon House location at 462 Wilson Street East, a proposed Amica Development.

I would like to publicly reach out to you and stress that the proposed building is beyond too large of a scope for the property. I have been a resident of Ancaster for over 30 years and live approximately 10 minutes away from the property, driving in the area countless times over the years. I can tell you with complete certainty that this will result in a massive traffic nightmare unless the intersection of Wilson Street and Rousseau is completely reworked.

The structure is completely out of place with the existing neighbourhood, as I don't believe there are any 7 or 6 story buildings in Ancaster anywhere. Nor is there an immediate need for additional retirement homes in the community.

The extra sewage requirements would also be a concern.

I am completely opposed to this development in every way. I ask that you please take a very good look at what this development will do to the area that has so much character and heritage. I'm sure nearly all residences in the community feel the same way. Please consider this when the planning committee meets to make a final decision.

Kind regards,

[REDACTED]

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From: [REDACTED]
Sent: December 19, 2021 10:27 AM
To: Van Rooi, James

Definitely opposed to the Amica application. Such a busy corner and street. Can you just imagine how that will affect the traffic flow.

A heritage building was torn down and now they want to build a tall building there.

The [REDACTED] family has lived in Ancaster since 1953. Some nice changes but it is no longer the nice little town that we moved into. I think we should be preserving the town's heritage, not destroying it.

[REDACTED]

Sent from my Galaxy Tab® A

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From: [REDACTED]
Sent: December 23, 2021 7:30 AM
To: Van Rooi, James
Subject: Fwd: Fw: Response to Application for Amica/condo development at 442-462 Wilson Street East, Ancaster
Attachments: 74-S-475_101 pump station drain shed[13402].pdf; 86-H-22_10 Wilson Slope.pdf; Next Final Version VanRooi[73].pdf

Mr. Van Rooi,

I'm writing to express my vehement objection to the proposed Amica condo development at the corner of Rousseaux and Wilson streets in Ancaster.

Not only does the proposed development offer nothing in the way of cultural or commercial value to the Ancaster community and surrounding businesses, but it would also put (as detailed in the attached reports) untenable pressure on already fragile public infrastructure.

It's quite clear from every angle (social, commercial, cultural, and environmental) that this is the wrong development in the wrong place for all the wrong reasons. Moreover, it is one that will, in the opinion of many residents, do irreparable damage to our unique and historic community.

I trust that you and those responsible for administering this proposal will uphold current building codes and bylaws to protect Ancaster and quash any perception that our community's future can be sold to the highest bidder.

Sincerely,

[REDACTED]
Ancaster Resident

----- Forwarded message -----

From: [REDACTED]
Date: Thu, Dec 16, 2021 at 5:35 AM
Subject: Fwd: Fw: Response to Application for Amica/condo development at 442-462 Wilson Street East,

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Ancaster

To: [REDACTED]

----- Forwarded message -----

From: [REDACTED]

Date: Wed, Dec 15, 2021 at 10:14 PM

Subject: Fw: Response to Application for Amica/condo development at [442-462 Wilson Street East, Ancaster](#)

To: [REDACTED]

Hello everyone, As you know, the Amica/condo development at the corner of Rousseaux and Wilson Streets is now on the table for public review and comments. **Comments should be sent to James Van Rooi, the City Planner who has carriage of this file, until December 23rd.** james.vanrooi@hamilton.ca

Above is the AVHC review of the Application, written by myself with the help of professional friends. (See the third pdf document "Next Final Version VanRooi").

The second pdf is the map of the topography of the slope of Wilson Street - including the sidewalk - beside this development. The slope on the hill is 5.71%. The allowed slope for such a development is 2.5%. Being more than twice the maximum standard, the street there is hazardous for both pedestrians and traffic. It is anticipated that frail seniors - many with mobility and cognitive challenges - living in either the Amica building or the condo development will be navigating this street.

The third document maps the route of the sewage wastewater pipe, which will carry the effluent from this development down the escarpment to the pumping station in the valley below on Old Dundas Road. From there it will be pumped back up the escarpment to Rousseaux Street in a force-main pipe, and travel to the Woodward Avenue Treatment Plant in the east end of the city. This sewage transportation system does not appear to have the necessary capacity to do the job (see the report for more detail). As you may remember, during this past summer the basements of homes in the valley near the pumping station were flooded with sewage, and the Councillor advocated for an outlet relief pipe into Ancaster Creek. Now we understand why a little better.

There is also a section in the review on traffic, with some suggestions about issues and the need for further data on collisions, personal injuries, traffic violations and delays to first responders such as fire and paramedic, none of which is included in the developer's Traffic Report. If you want to use this critique to form your own comments, please do so.

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Best wishes, [REDACTED]

--

[REDACTED]

--

[REDACTED]

Order my latest book Resurrecting Retail: The Future of Business in a Post-Pandemic World

From: [REDACTED]

Sent: December 20, 2021 9:32 PM

To: Van Rooi, James; Office of the Mayor; Ferguson, Lloyd; clerk@hamilton.ca

Subject: Response to Application for Amica/condo development at 442-462 Wilson Street East, Ancaster

Dear Mr. Van Rooi, City Planner:

There is no need to debate the proposed 7 story ultra-modern proposals submitted by Amica for a retirement /condo development.

Just ask yourself, "Does this application fit the requirements as set out by the Ancaster Core Plan of being no greater than 9 metres, fit the property by being properly set back from the sidewalk with a density of less than 50 persons per hectare, protecting the existing landscape and of complimenting the existing heritage architecture of one of Ontario's oldest and most storied villages."

Of course, the answer is "no" to all of these requirements, why is a debate even needed? If I plan to break the laws in Hamilton do I get to propose that I should be excused, that the laws be changed for me? No, a simple no.

So please enforce your own regulations/laws and turn down this proposal and simply say no, this is against our laws/regulations. Just no. Perhaps refer them to the planning guidelines so they can become aware of what actually is permitted.

These proposals may be meet the guidelines in north or west parts of Ancaster, but they do not at the corner of Rousseaux and Wilson. A massive, modern 7 story building, towering over one of the busiest intersections in Hamilton, with ten times the allowable density does not fit at the gateway to our historic, heritage village of Ancaster. All the other developers in the core have conformed to the rules and built architecturally cohesive facilities that enhance the vitality and feel of our historic village core. This developer should not be surprised to hear that theirs does not.

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[REDACTED]
Ancaster Resident

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From: [REDACTED]

Sent: December 13, 2021 1:29 PM

To: Van Rooj, James

Subject: Development at Wilson st and Rousseaux St

Hi there,

Just wanted to send my support for the retirement home at the corner of Wilson and Rousseaux in Ancaster. I

understand there are a lot of dissenting opinions being sent your way, so wanting to send support for the project.

Thanks

[REDACTED]

Ancaster

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From: [REDACTED]
Sent: December 23, 2021 10:41 PM
To: Van Rooi, James
Subject: Response to Application for Amica/condo development at 442-462 Wilson Street East, Ancaster

Attention Mr. Van Rooi,

Re: Application by GSP Inc. for an Official Plan Amendment and a Zoning By-law Amendment at 442-462 Wilson St E Ancaster.

Receiving this letter on December 10th only allowed me 13 days to prepare my response during my busiest time of year. Considering this timeline, I would like you to include my comments for the staff report for Council consideration but remove my personal information and not make it available to the general public.

I submit the following preliminary remarks regarding: Official Plan Amendment (File No. UHOPA-21-023), Zoning By-law Amendment (File No fZAC-21-049).

The Ancaster Wilson Street Secondary Plan expressly advised against any retirement home. These properties are located within the Ancaster Heritage Village Core and its respective BIA. This area is not demographically nor geographically suited for a retirement home nor any high-density construction and should remain as currently zoned as mixed-use medium density - pedestrian focus (C5a,570).

As a neighbouring resident, the request to build 24 metres high infringes on the privacy of residential properties in the area. This request is more than double the current limit of less than 9 metres, and maintaining the current limit is in the best interest of Ancaster residents.

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Furthermore, the placement of utilities, transformers, HVAC, waste management and more, are not correctly prepared. The noise and disruptive output of these utilities are of extreme concern. The impact is not only limited to the residence, but the wildlife and ecological conservation impact are of significant concern.

In addition, combining these four properties into one without any driveway access from Wilson Street will negatively impact other surrounding properties and businesses due to massive traffic congestion, misuse of other parking and accesses from the street, and disregard for private property.

We would like to request additional rendering views and elevations, especially from the North/East direction.

Finally, the overall design, massive building and non-heritage appearance of the building does not coincide with the heritage structure and appeal of one of Ontario's earliest communities. The heritage values of Ancaster are a driving factor for the business and citizens of the town. This appearance must be protected and encouraged to maintain these values. The construction of this project jeopardises the future of Ancaster's heritage identity.

Regards,

Dan Faulkner

[Redacted signature block]

[Redacted contact information]

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From: [REDACTED]
Sent: December 23, 2021 10:41 PM
To: Van Rooi, James
Subject: Response to Application for Amica/condo development at 442-462 Wilson Street East, Ancaster

Hi James,

I'm following up with our response to the application.

- 1) Did our email arrive in time to be submitted with the other responses?
- 2) We would like to request additional rendering views and elevations, especially from the North/East direction. How can we see these views?

[REDACTED]

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From: [REDACTED]
Sent: December 12, 2021 10:15 PM
To: Van Rooi, James; clerk@hamilton.ca
Subject: development ZAC-21-049 and UHOPA-21-023

Hello James.

This is in regards to ZAC-21-049 and UHOPA-21-023

I am writing you to express my concerns with the application for development in Ancaster at 442, 450, 454, 462 Wilson street East.

I feel this proposal is too big of a change to the Ancaster secondary plan. This development is very out of character for the street scape within a historic district.

In particular the amendments to the following.

1. Height: Both the 6 and 7 storey proposals is excessively over what is outlined within the secondary plan and should be denied.
2. Setback: The setback to both Wilson street and neighboring property is not sufficient for both pedestrian or drainage.
3. Density and usage: The property is not zoned for a retirement home and the increased in density for the area would be very significant. I know on the surface the area does not appear dense. However given the historic nature of the road infrastructure and its already high traffic use for people trying to get to the link. Such a high number of units would create a significant burden on the community.

I would very much like to see the Hamilton planning department take a firm line with this and future developments that densification and redevelopment have to be done with the community needs in mind. The secondary plans were developed for a reason and should be the assumed guidelines not something that should be changed at the whim of every developer.

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I would very much like to be kept informed about this development and maintain my right to appeal.

Regards

[REDACTED]

From: [REDACTED]
Sent: December 8, 2021 1:53 PM
To: Van Rooi, James
Subject: Ancaster Village Heritage Community

As a citizen of Ancaster, I totally disagree with having a retirement home or multi level condo on the corner of Rousseaux/Wilson intersection. I fully agree with all the facts raised by the Ancaster Village Heritage Community: and feel these facts should be considered before any ground breaking.-What is permitted on this site by the Official Plan and zoning is a 9 meter height (the proposal is for 25 meters) with retail/services on the ground floor and residential above.

--a Retirement Home is NOT a Permitted Use at this location

--the application is to add Retirement Home as a Permitted Use in C5A Zoning at this site, and to permit a building much higher than the Ancaster Wilson Street Secondary Plan permits

--the proposal is a 7 storey retirement home operated by Amica. The facility will have full care, memory care and independent living (but units will not be self contained). An alternative proposal for a 6 storey condo is also included, but the primary plan is for Amica so comments probably should address that

--the full height will be at the rear very close to the residential property at 20 Rousseaux. The driveway will also be at the rear

--the very large trees on the property will be removed as will the stone retaining wall in front of the former Brandon House and the building adjacent to the Brandon House lot.

--this proposal retains 2 of the existing homes on the streetscape—you can see that clearly in the rendering

--the proposal includes up to 4 retail uses at street level

--the Official Plan has Design Guidelines designed to have new buildings "fit in" to the Village Core—beauty is in the eye of the beholder so you can decide on the style proposed

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--the proposal has the driveway on Rousseaux and puts forth a plan to do some widening (their expense) to allow left turns INTO the driveway but only right turns EXITING. You might find it helpful if you are out and about to take a look at where the driveway will go and how the street is arranged at that point

--the proposal is silent on what effect this could have on cut through traffic in Maywood

--the Transportation Study (done voluntarily at the request of AVHC) shows the Rousseaux/Wilson intersection is at capacity with long lines in rush hour.

As if the congestion picture was not complicated enough, consider further that some events can cause others to occur. For example:

- The presence of severe congestion on highway 403 "to and from" Brantford shifts traffic demands to other highways (Wilson, and 99) or causes travelers to leave later. High congestion levels can also lead to an increase in traffic incidents due to closer vehicle spacing.
- Bad weather can lead to crashes due to poor visibility and slippery road surfaces.
- The traffic turbulence and distraction to drivers caused by an initial crash can lead to other crashes. They can also lead to other mechanical failures resulting from being stuck behind another incident.
- Currently our farmers market is thriving on Wilson St despite the present traffic congestion. I fear our residence will become disinterested in supporting the market due to the extra driving times.
- I am interested in the Planning Committee's solution to these obvious problems such as; options that can be used in town to alleviate downtown congestion. These Obvious possibilities are not what we want to hear, they include:
 - Charge more for parking
 - Build alternative roads around downtown areas
 - Improve public transportation
 - Build more residential apartments within walking distance to downtowns
 - Synchronize traffic lights
 - We do not want this multi level building placed at the corner of Rousseaux/Wilson intersection. It will be driving down the barrel of a gun.
 - Best Regards, [REDACTED]

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From: [REDACTED]
Sent: December 17, 2021 12:28 PM
To: Van Rooi, James

Subject: Proposal for Ancaster Amica

Dear Mr. Van Rooi,

I am writing to express my opposition to the proposals for the property at 442-462 Wilson St. e. in Ancaster. This development, if approved, will have a great impact on the character of the neighbourhood and all of Ancaster .

We live in an area of mainly older detached homes and the proposed building is an extreme departure from this. The effects it will have extend beyond appearances.

1)Environmentally it will affect climactic conditions:

- airflow will be affected
- sunlight will be lost to neighbouring properties which in turn effects trees and gardens in these areas will be affected -loss of trees that benefit not only the environment but also the physical and mental health of people will be affected -storm water runoff will result due to the loss of trees and the area of land covered by the building -an increase of artificial light which is a distraction to wildlife in the area

2) Traffic:

- Wilson and Rousseau is already a very busy intersection and this building would only contribute to more backups which in turn would increase air and noise pollution.
- the proposed traffic flow out of the property would increase the volume of traffic along Lodor St. which does not have the capacity for it.

3) Parking:

- parking for visitors as well as maintenance vehicles would probably overflow onto neighbouring streets.

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4) Existing seniors residences:

- There are already several seniors residences in Ancaster and one being built at South one and Golf Links within walking distance this proposed building. As well, there is a massive Amica residence in Dundas and several residences along Rymal Rd.

The fact that there are applications for amendments to the Ancaster Wilson Street Secondary Plan and the zoning bylaw would indicate that this development does not fit the neighbourhood.

As a resident of 451 Lodor St., I can only see this development as having a very negative effect on the quality of life in this neighbourhood and hope that you consider carefully the ramifications of such a development when preparing your report.

Sincerely,



Please do not include my address on the city's website.

From: 

Sent: December 20, 2021 9:30 AM

To: Van Rooi, James

Cc: Ancaster Village Heritage Community AVHC

Subject: Comments re Amica Development of 462, 454, 450 and 442 Wilson St. E.

Dear Mr. Van Rooi,

Thank-you for the opportunity to provide input regarding the proposed development of 462, 454, 450 and 442 Wilson St. E by Amica.

My husband and I moved to Ancaster four years ago to enjoy its peace and tranquility, being assured that any development would be constrained by height and purpose. Imagine our surprise and dismay when Brandon House was destroyed, all in the name of progress. And the project being proposed for the use of this now bleak property contravenes current height restrictions and indeed permitted usage for C5A Zoning at this site, making a sad situation even worse!

In addition, traffic is already very challenging on Wilson Street, particularly at the intersection of Wilson and Rousseau, with rush hour making access to Lodor Street and egress from Lodor onto Rousseau a challenge. Traffic on Lodor has already increased carrying more and more people to and from . This situation will most certainly be exacerbated by this proposed project, and further impact my enjoyment of my home, neighbours and community. And In fact, I expect it would substantially reduce the value of my home.

While I can understand the need to generate revenue, this is truly a betrayal of the citizens of Ancaster, particularly those such as myself who will be directly impacted by such a development given the

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proximity of the location. I don't understand why this proposed project, unlike other projects on Wilson Street, is even being considered given its contravention. Is your first responsibility not to your citizens?

City Planners have a vital role in protecting the community they serve. I hope you will take these comments, and no doubt others, seriously and stop this disastrous project.

Sincerely,

[REDACTED]

CEO

[REDACTED]

From: [REDACTED]

Sent: December 8, 2021 3:08 PM

To: Van Rooi, James

Subject: Brandon House property

To all involved;

I am writing to express my concerns over this horrendous, unappealing proposal for the corner of Wilson and Rousseau streets. First of all I am shocked at the amount of high density construction is being built along this area since the traffic flow has been a problem for years including jeopardizing the safety of residents. Making a left hand turn anywhere is becoming more and more frustrating. I am also very worried about the lack of respect of our bylaws regarding 3 story maximum. This is a small town and this type of development is not appropriate for this area nor is it warranted. My husband and I are retirees and we will never move into any of these condos being built and frankly I am becoming insulted that everyone wants to stick me in one. We will be downsizing soon but we will be looking for a one floor home with a garden if there are any left that haven't been torn down. I also feel terrible for the residents living around this lot and I feel it is shameful that they aren't being considered in the decision. Ancaster has been known for decades for its historical beauty. Please help us maintain that reputation and stop these developers that only care about making the most money possible instead of what is suitable.

Thank you,

[REDACTED]

Sent from my iPad

From: [REDACTED]

Sent: December 8, 2021 1:24 PM

To: Van Rooi, James

Subject: NO!!!!

Hello Mr.Vanrooi,

Was there ever a consensus with the community about all these developments? No, and that's why there is so much pushback now! Cause nobody wants it! I have a long history of family heritage in Ancaster and I have ALWAYS loved the town because of the amazing Heritage! And because of the Heritage is why I decided to buy my Grandparents old home and raise my family here. And also save it from new development!

I also now hear that long time volunteers are leaving The Heritage Days committee because of all this! Which makes sense! Heritage Days should be cancelled, because The Heritage is disappearing in front of this community! This is not welcomed and the only thing that is happy about this, is developers bank accounts!

[REDACTED]

From: [REDACTED]
Sent: December 14, 2021 11:23 AM
To: Van Rooi, James
Subject: Response to Application for Amica/condo development at 442-462 Wilson Street East, Ancaster
Attachments: 74-S-475_101 pump station drain shed[13402].pdf; 86-H-22_10 Wilson Slope.pdf; Next Final Version VanRooi[73].pdf

Hello James,

Re: 442-462 Wilson Street East, Ancaster

Ancaster Village Heritage Community, Inc. submits the attached comments and analysis for your attention. Accompanying the attached main document are charts indicating the topography of the slope on Wilson Street beside the development, and a map of the sewage wastewater system that will drain this development site into the pumping station on Old Ancaster Road.

Thank you for the opportunity to respond to this development proposal. I trust that you will find our remarks useful.

I also hope you will have a merry Christmas and a most rewarding New Year.....

Best wishes, [REDACTED]

[REDACTED]

Ancaster Village Heritage Community

[REDACTED]

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330 Lodor St, Ancaster L9G 2Z2

Mr. James VanRooi, Urban Planner
 City of Hamilton
 71 Main St W
 Hamilton, ON L8P 4Y5

December 11, 2021

Dear Mr. VanRooi,

Re: Amica/condo development at 442-462 Wilson Street East, Ancaster

In response to the City invitation for public comments about the Amica/condo development at 442-462 Wilson Street East in Ancaster, on behalf of the Ancaster Village Heritage Community I submit the following preliminary remarks:

1. Ontario Planning Act, 1990, S. 2

Ancaster Village Heritage Community believes that the project fails to conform to the following matters of provincial interest set out in Section 2 of the Ontario Planning Act:

2(d) on the conservation of heritage	The development as proposed, @ 7 storeys with ultra-modern design incongruous to heritage architecture, and with an overwhelming height, footprint and population density, is a radical departure from the built form in the context of the Ancaster Village; its massive main building is unreflective of heritage conservation in one of the oldest and most storied villages in Ontario.
2(h) on the orderly development of communities	As above. This is a radical departure from Ancaster’s historic cultural heritage landscape in terms of height, ultra-modern design, footprint and population density.

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2(o) on the protection of public health and safety	The intersection of Rousseaux and Wilson Streets is among the busiest intersections in Hamilton. Not only is it under considerable pressure from traffic during morning and evening peak hours, but the downward slope of Wilson Street approaching the intersection with Rousseaux from the south, along the length of this development site, creates a serious hazard as well, to both pedestrians and drivers. The current 5.71% slope of Wilson Street coming into the intersection with Rousseau far exceeds the allowable 2.5% max. required by City standards. This factor was not taken into account in the Traffic Report. Further, the high volumes, serious delays and long queues of traffic on Wilson and Rousseaux Streets, as documented by the Traffic Study, often exceed capacity and create serious obstacles for EMS and first responders - another health and safety factor left undocumented in the Traffic Report. Increased vehicular traffic, combined with frail and handicapped pedestrian traffic from the proposed retirement home or condos - presents a serious public health and safety risk, especially in the winter season. See below for further discussion and detail.
2(p) on the appropriate location of growth and development	The Ancaster Wilson Street Secondary Plan allows neither a Retirement Home nor heights over 9 meters. The 24-meter proposed height will overwhelm the heritage context and sense of place of the Ancaster Village. This development should be located where the Ancaster Wilson Street Secondary Plan prescribes, in the Uptown area of the Ancaster Node. Neither proposal conforms to this requirement.
2(q) on the promotion of development that supports public transit and is oriented to pedestrians	As above in (o). Senior residents of the Retirement Home or condos will have difficulty navigating the street, crossing the streets, and crossing the intersection on foot, especially during the winter season.
2(r) on the promotion of built form that is well-designed, encourages a sense of place and provides for public spaces that are high quality, accessible, attractive and vibrant	The Ancaster Wilson Street Secondary Plan allows neither a Retirement Home nor heights over 9 meters. The building is unattractive and differs little from the typical architectural style of buildings with similar purpose in

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Page 87 of 97**

	<p>other locations and municipalities. It does not encourage a sense of place, especially in a cultural heritage landscape. The 24-meter proposed height will overwhelm the heritage context and sense of place of the Ancaster Village. The architectural design of both proposals is incongruous, incorporating both genuine heritage buildings and ultra-modern design. Accessibility by pedestrians from Wilson Street will be difficult. Neither proposal conforms to this requirement. Unacceptable.</p>
--	--

2. Provincial Policy Statement (2020)

Policy 2.6.1 states: Significant built heritage resources and significant cultural heritage landscapes shall be conserved. This site is part of a cultural heritage landscape which will not be conserved by the incongruous mixture of genuine heritage and ultra-modern architectural design, extreme height, footprint and intensification if this scenario goes forward. This proposal is unacceptable.

3. Ancaster Wilson Street Secondary Plan and Policy

Regarding the application of Ancaster Community Node Policy Vol. 2, 2.8.6.1 in this proposal, we object in the following ways:

<p>c) Intensification and infill development shall be balanced with the heritage and historic character of Ancaster. Further guidance for incorporating heritage features, design, and overall character through infill and intensification is provided in the supporting Ancaster Wilson Street Urban Design Guidelines.</p>	<p>The heritage and historic character of Ancaster is overwhelmed by the level of intensification proposed, the mass and height of this development, and the incongruity of its architectural design. It fails to meet the guidance criteria for incorporating heritage features, design, and overall character through infill and intensification provided in the supporting Ancaster Wilson Street Urban Design Guidelines. Unacceptable.</p>
<p>d) Within the Ancaster Community Node, larger scale development and redevelopment are encouraged to be directed towards the Uptown Core and western portion of the Gateway Residential area, as shown on Appendix A – Character Areas and Heritage Features.</p>	<p>This development should be located in the Uptown Core and western portion of the Gateway Residential area where it belongs, not in the very heart of the Ancaster Village Core. The development is inconsistent with this requirement as shown on Appendix A – Character Areas and Heritage Features of the AWSSP. Unacceptable.</p>
<p>e) Mixed Use, Commercial, and Institutional development and</p>	<p>The scale of this building and its design are inconsistent with the Village Core area and its</p>

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redevelopment is encouraged within the Village Core area, though the scale of development shall be consistent with the historic character of the area.	historic character as detailed in Policy 2.8.12 of the AWSSP, and the supporting Urban Design Guidelines. Unacceptable.
g) The overall density for the Ancaster Community Node shall be 50 people and jobs per hectare.	Density calculations may not be an issue for a retirement home. Nevertheless, the Plan Justification Report indicates that the retirement home concept includes 182 units (301 beds) over an area of 0.57 hectares representing an overall density of 320 units per hectare. 301 beds per .57 hectares (assuming one person per bed) works out to a density of 528 people per hectare, a multiple of 10x over the density requirement. The mixed-use concept includes 161 units, representing a density of 283 units per hectare. Both are unacceptable.

4. Traffic and Transportation Context

a) Volume and Capacity Overloads at the Wilson/Rousseaux Streets Intersection
 Contained in the Salvini Traffic Study is the following statement (p. 14): “The Wilson/Rousseaux intersection is busy in both weekday peak hours and is currently operating at or near capacity. In future with the growth in background traffic, traffic operations are expected to deteriorate and demands will exceed capacity in the 2026 horizon.” In fact, as Table 1 (p. 4) of the Traffic Study clearly illustrates, the intersection is already operating above volume capacity with lengthy delays and long lineups extending well beyond 100 meters in the pm peak period.

Meanwhile, the Traffic Study states (p. 7): “The Retirement Home is expected to generate 13 and 334 peak hour trips in the weekday morning and afternoon, respectively, while the alternate apartment use would generate 62 and 88 peak hour trips in the weekday morning and afternoon, respectively. The zone change would permit a mixed-use apartment building that would generate between 62 and 88 two-way trips in the weekday peak hours or about 1046 daily trips.”

Nevertheless, the Traffic Report goes on to state (p. 14), “The site adds very little traffic to the Wilson/Rousseaux intersection given the low traffic generation and the high demand to and from the east and the highway connections there.” Based on the volume data cited, this is simply not the case.

No doubt the high volumes, lengthy delays and long queues of traffic on Wilson and Rousseaux Streets also create serious obstacles for EMS and first responders, a health and safety factor which was not taken into account in the Traffic Report. One would think that efficient EMS services would have special importance to seniors living in the retirement home or condos at this site. Another friend of AVHC has reported sitting in traffic beside an ambulance which was responding to a call for a number of traffic light changes at this intersection. Stalled traffic was unable to get out of its way.

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AVHC asserts that taking into account current traffic blockages and delays along Wilson and Rousseaux Streets and at this intersection, plus the relative absence of alternative routes accessing Ancaster, the additional traffic contemplated at this intersection is unacceptable.

Taxpayers should not be burdened with high costs for improving traffic flows at this site to accommodate this plan.

b) The 5.71% Slope of Wilson Street Alongside the Site Presents a Serious Hazard to Vehicular and Pedestrian Traffic

Not only is the Wilson/Rousseaux Street intersection under considerable pressure from traffic during morning and evening peak hours, but the downward slope of Wilson Street approaching the intersection with Rousseaux from the south creates a serious hazard to both pedestrians and drivers. The slope of Wilson Street at this site is 5.71%. (See plan and profile of this location). Today's regulatory standards require that this slope not exceed 2.5%.

Frail seniors with mobility or cognitive challenges living in either the retirement home or condos will have considerable difficulty navigating Wilson Street and accessing the businesses located there, especially in the winter. Such mobility and cognitive challenges will magnify the already dangerous conditions on Wilson Street and at this intersection as well because of the slope. The reports included with the Application do not deal with this issue.

A resident we know who waits for a bus at the Wilson/Rousseaux intersection every morning often sees vehicles speeding through red lights rather than trying to stop on the steep downward slope on Wilson Street. Another resident familiar to AVHC was hit by a pickup truck when crossing at this site. This risk occurs under all weather conditions, but is especially dangerous in icy or wet circumstances.

Data regarding these events – collisions, personal injuries and red light violations - should be provided in the Traffic Study, and appropriate safety measures undertaken.

Once again, it is unfortunate that the Traffic Study failed to identify and analyze these factors in their study.

c) Maywood Neighbourhood

Finally, and of great importance to the Maywood neighbourhood, restricting exiting traffic from the site to a right-hand turn onto Rousseaux Street will force a significant proportion of this additional traffic to navigate through the Maywood neighbourhood along Lodor, Academy and Church Streets to access Wilson Street. Pavements along Lodor, Academy and Church Streets in the Maywood neighbourhood are well below standard width, at approximately 6-6.5 meters, and have sidewalks on only one side of the street. The developer has offered to fund traffic measures to mitigate the increased traffic, and this is greatly appreciated. However, cut-through traffic in Maywood is a long-standing problem, and an increase is unacceptable.

5. Sanitary Sewer Servicing

In the Functional Servicing Report by Llewellyn and Associates provided with the Application, the proposed sanitary discharge rates for both proposals are included in Tables 3.1 and 3.2 in the Report (p. 10).

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Table 3.1 – Proposed Sanitary Sewer Discharge – Long-Term Care Building

Waste Generated (l/day)	97,165
Total Wastewater Estimate (l/s)	1.1

Table 3.2 – Proposed Sanitary Sewer Discharge – Mixed-Use Building

Waste Generated (l/day)	149,020
Total Wastewater Estimate (l/s)	1.72

The Llewellyn FSR Report states that the proposed building will be serviced by a 200mmø sanitary sewer which will discharge to the existing 200mmø sanitary sewer flowing eastward on Rousseaux Street. The proposed sanitary sewer will have a capacity of 0.040 m³/s (40 l/s) at 1.5% grade, which will adequately service the proposed development.

a) Is Retirement Home Wastewater comparable to a Long Term Care Facility Wastewater?

There is a question whether a Long Term Care Facility (LTC) is comparable to a Retirement Home in the generation of wastewater. If not, the comparative data is meaningless. It could be expected that a Retirement Home, having relatively independent, mobile and cognitively intact residents using facilities more freely and independently would generate more wastewater than a Long Term Care Facility, which is a step higher in the level of care provided to residents.

Nevertheless, these Tables demonstrate that added loads on the wastewater system from either development would be significant.

b) Will the Existing Wastewater Pipe on Rousseaux Street Manage the Increased Effluent?

There is another problem. The claim that the 200 mm sewage pipe on Rousseaux Street will handle the added wastewater is highly questionable. The flow presented in the Report is averaged over a 24-hour period. However, the pipe will necessarily have to accommodate peak flows. Standard calculations for peak flows extrapolated from average daily flows require a multiple of 5. Using this figure, peak flows for each proposal are the following:

Table 1: Proposed Sanitary Sewer Discharge Peak Flow – Long-Term Care Building

Waste Generated (l/day)	97,165
Total Wastewater Estimate at Peak Flow (l/s)	5.50

Table 2: Proposed Sanitary Sewer Discharge Peak Flow – Mixed-Use Building

Waste Generated (l/day)	149,020
Total Wastewater Estimate at Peak Flow (l/s)	8.60

The existing 200 mm sanitary pipe on Rousseaux at 1.6% slope has a capacity of 38 l/s and is already carrying all the flows up to and including Lowden Avenue east of the development. This pipe carries effluent generated from as far away as west of Halson Street. By adding 5.50 l/s (LTC) or 8.60 l/s (mixed-use building) flows at peak they are adding either a 16% or 22% increased flow to a pipe which is already likely at capacity or over.

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c) The Rousseaux Street Pipe Carrying Wastewater From This Development Travels Down the Escarpment to the Pumping Station on Old Dundas Road

Another factor not mentioned in the FSR Report is that although wastewater from this development will initially flow eastwards as stated, after a short distance it will turn westwards again and flow down the escarpment many meters to the pumping station located in the valley below on Old Dundas Road. From there it will be pumped back up the escarpment through a force-main onto Rousseaux and then travel onward to the main sewage treatment plant on Woodward Avenue in the east end of Hamilton.

During this past summer's heavy rains, a number of basements near the pumping station on Old Dundas Road were flooded with sewage, a recurrence of this problem. The pumping station underwent renovation recently, but we are told that its pumping capacity has not increased, and efforts to seal the downpipe and force-main access to homes have not been successful. Either proposed development will add a highly significant load to the waste management system and the pumping station.

The question arises whether the wastewater system and pumping station on Old Dundas Road can handle the added sewage flows, which could already be above capacity on Rousseaux Street, without more frequent and more serious flooding of the homes below. Since other developments are contemplated on Wilson Street (e.g. the 129-unit condo + commercial development at Academy and Wilson Streets), which will also drain sewage to the pumping station through the Lowden Street interchange, there appears to be serious risk of continued inadequate sewage capacity issues and overflows into the homes of people living on Old Dundas Road.

It is unfortunate that the FSR Report did not identify these problems and discuss solutions. Neither the owners of homes on Old Dundas Road nor taxpayers should be required to bear the costs of threats to health through exposures to toxic effluent from this development, nor the costs of replacing a sewage system that is completely inadequate to service these developments.

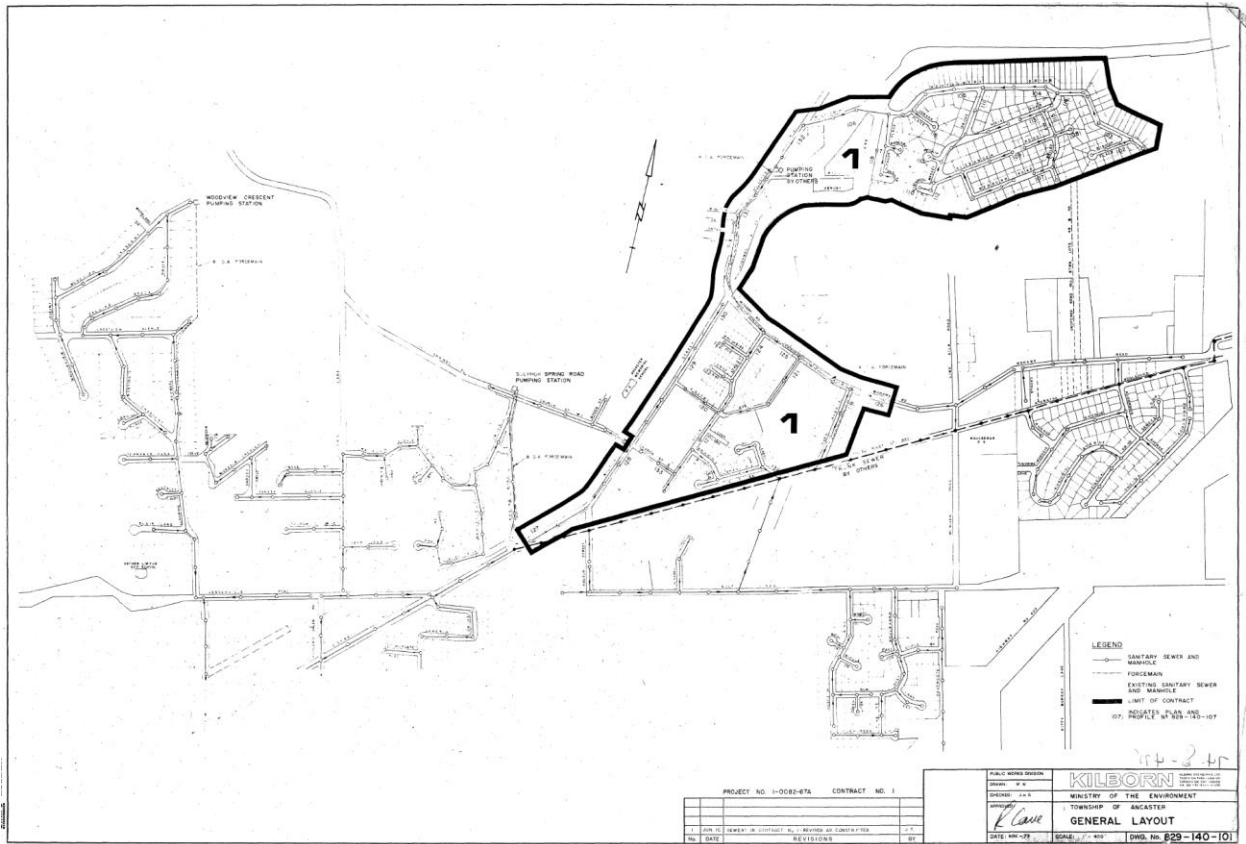
Yours sincerely,



Dr Bob Maton
President

cc. Ancaster Village Heritage Community Board of Directors

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Page 94 of 97



**Appendix "C" to Report PED22037
Page 95 of 97**

From: [REDACTED]
Sent: December 17, 2021 5:16 PM
To: Van Rooi, James
Subject: Ancaster Amica Build

Dear Mr. James VanRooi

I hope this email finds you well and you and your family are healthy and happy during this festive time of year. I am writing in regard to Ancaster, a town over 200 years old and receiving its official name in 1793. I believe this town deserves more from our elected officials and municipal members. Its' history from then until now, is rich and unfortunately being lost due to poor planning and what appears to be greed and corruption. I am opposed to the application put forth by 'Amica' at Wilson and Rousseau Street in Ancaster. Anyone who has any interest in Ancaster would be. The reasons are multiple and include, current zoning, traffic, infrastructure, heritage, need, and overall respect for the town and people within it.

To start and most simply, height limits are currently 2.5 storeys and this plan is for a 7 storeys building. Today and in the future, no proposal above this should be considered, period. I consider this to be obvious with no need for explanation or reasoning. Secondly the area is not zoned for retirement homes nor is it an appropriate location for one. In their last meeting, Amica suggested that it is a great location because it is close to the village core and inhabitants can easily access such core. They have not been thoughtful to the audience they are trying to manipulate. The majority of the people that would acquire such a living space, either fully capable or not, would have great difficulty getting up that grade to get to the 'village core'. The allowed slope for such a development is 2.5% and the slope here is 5.71%. Further more, this is a very busy intersection and to have so many pedestrians trying to navigate the area is dangerous at best. On that point, it clearly demonstrates Amica's lack of interest and understanding of the people they plan to provide a safe haven to as well as the people of the town. Thirdly, no expert is needed to determine the road cannot handle it, in both pedestrian and vehicle traffic as well as drainage. Either the retirement home or the secondary condo development they proposed will most certainly cause traffic overload and I don't need a study to tell me that. I drive this intersection everyday at 8:30 and 5:30 and without fail it is consistently backed up and frustrating (certainly not as bad during COVID, when a study may have been done, but I haven't forgotten). On top of the obvious issues, sewage and drainage are most certainly on everyones radar given the current issues homeowners in this

area are already being faced with. Having basements full of sewage due to an overzealous, poorly planned and egregious proposal is not acceptable. Finally and with distinctive importance, neither of their proposals are in keeping with the heritage of Ancaster. The Ancaster Secondary Plan requires that new buildings conform to a heritage architectural style. This has already been done well with several of the 'new' builds along the village core, including the Baracks and the corner of Halson and Wilson St., Bravo to this builder. Using appropriate brick and mortar, windows and doors is important to the keeping of a town and its history and intrigue. The most recent building placed directly in the view of locals enjoying good food and drink at the 'Blackbird', formerly Rousseau House restaurant are now forced to look at a building that pretends to fit in but does not and I don't want to see that happen again. It is embarrassing and a delinquent reflection of developers interests and illustration of the apathy among our elected officials and city planners. If developers had some sense they would know and respect the importance of heritage. Perhaps advise the developers to create a vision in keeping with the current bylaws/zoning and the atmosphere of this town. Please take all comments with sincere and thoughtful interest and understanding when you and your colleagues develop your report.

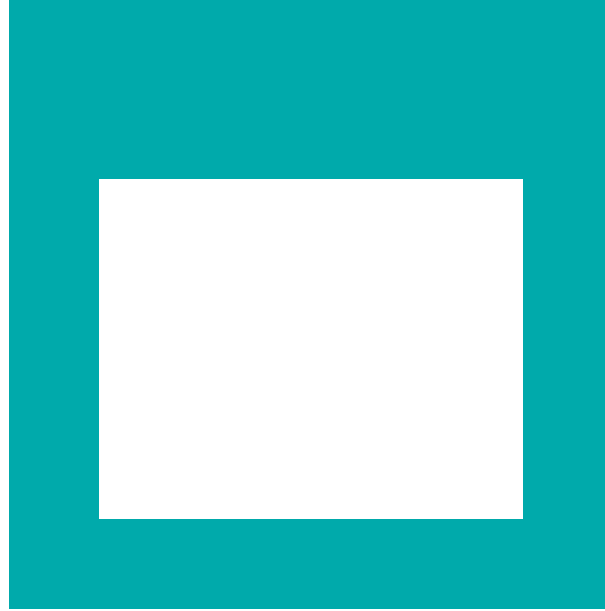


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From: [REDACTED]
Sent: December 21, 2021 10:54 AM
To: Van Rooi, James
Subject: Proposed Amica Development

Mr. Vanrooi -- if this development goes through, I believe it will be the beginning of the ruination of Ancaster village as we know it. It is unimaginable to me that something so large, tall and dense is even being considered. Its position at the entry to the village will set a tone that is not at all in-keeping with the rest of the landscape and feeling of the street. As well, you must know that there are very real issues with regard to increased traffic congestion, sewage management, and pedestrian safety. Please do not allow this, or the massive condo alternative development to go through. Surely, there are plenty of other places in and around Ancaster where this development could be much better placed.

[REDACTED]



WELCOME TO THE CITY OF HAMILTON

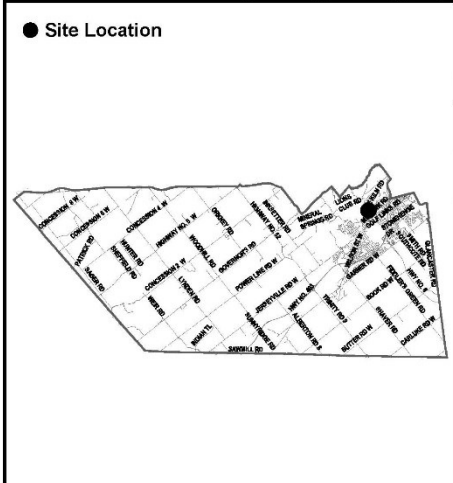
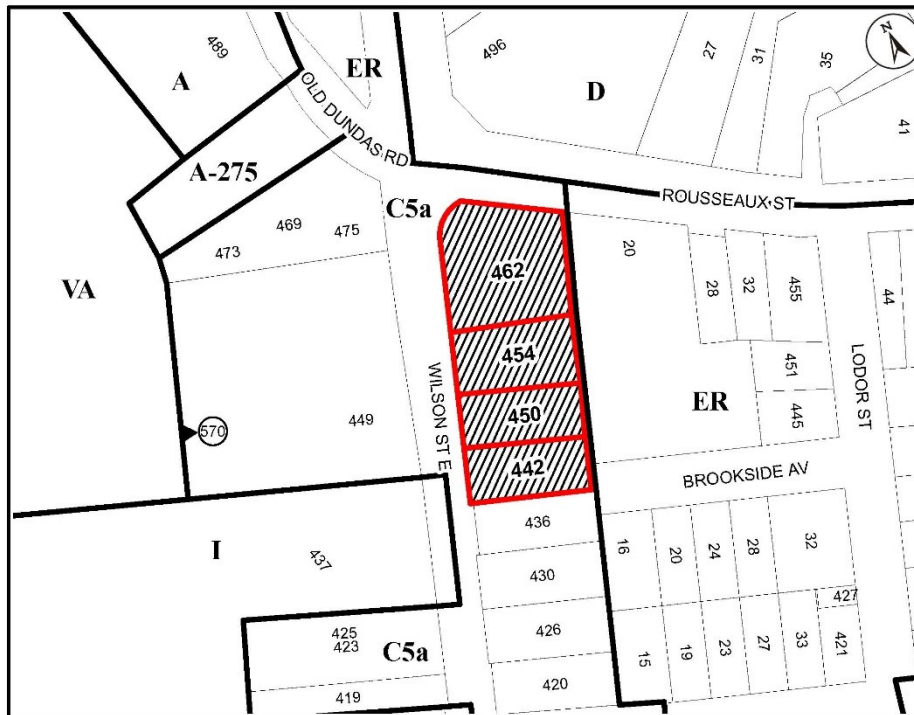
PLANNING COMMITTEE

February 15, 2022

PED22037– (ZAC-21-049 / UHOPA-21-023)

Applications for Amendments to the Urban Hamilton Official Plan and Zoning By-law No. 05-200 for Lands Located at 442, 450, 454 and 462 Wilson Street East, Ancaster

Presented by: James Van Rooi



Key Map - Ward 12

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Hamilton

File Name/Number: ZAC-21-049 & UHOPA-21-023	Date: November 24, 2021
Appendix "A"	Scale: N.T.S.
Planner/Technician: JV/AL	

Subject Property

442, 450, 454 & 462 Wilson Street East

Change in Zoning from Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone to the Mixed Use Medium Density - Pedestrian Focus (C5a, __) Zone



SUBJECT PROPERTY



442, 450, 454 & 462 Wilson Street East, Ancaster



1 Preliminary Perspective - View 01
 A4.1 NTS



2 Preliminary Perspective - View 02
 A4.1 NTS



3 Preliminary Perspective - View 03
 A4.1 NTS



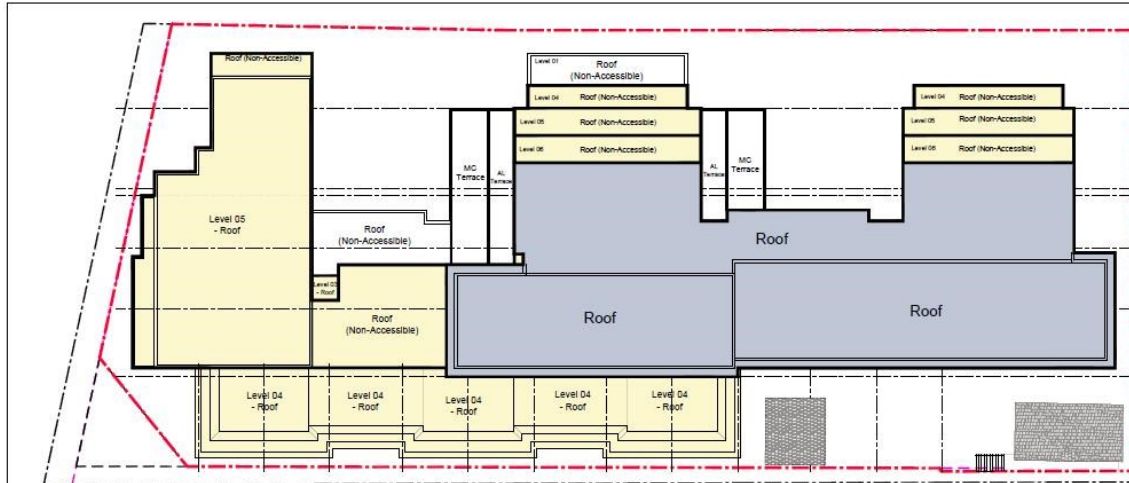
4 Preliminary Perspective - View 04
 A4.1 NTS

MSAi
 MICHAEL SPINALE ARCHITECTS INC.
 10 Dundas Street West, Suite 200
 Toronto, Ontario M5G 1L7
 Tel: 416-593-9333

ONTARIO ASSOCIATION OF ARCHITECTS
 Registered Professional Architect
 License No. 10000

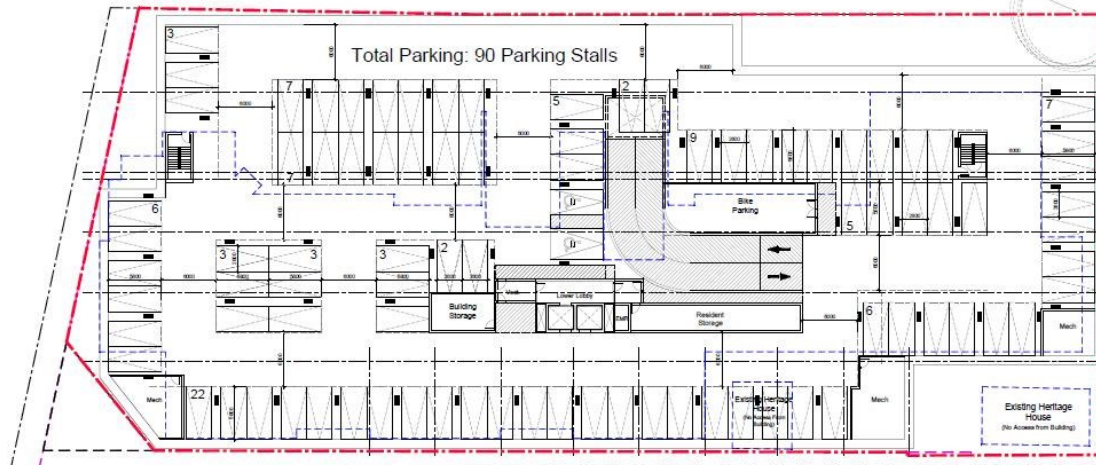
DATE:	SEPTEMBER 2021
SCALE:	AS NOTED
CHECKED:	MSB
FILE NO.:	C0216
PROJECT NO.:	C0216
CLIENT:	2691893 Ontario Inc. c/o IronPoint Capital Management Inc. 195 James Street South Hamilton ON, L8R 2L2
PROJECT:	Retirement Home Development Concept 442, 450, 454, 462 Wilson Street East Ancaster, Ont.
SHEET TITLE:	Preliminary Perspectives
DRAWN:	MSB
CHECKED:	MSB
FILE NO.:	C0216
DATE:	SEPTEMBER 2021
SHEET NO.:	A4.1





Roof Plan

1 Roof Plan
 Scale: 1/200



Parking Level - P1 (214.75)
 P1 - Underground Level
 Area: 4,689 sq.m (50,473 sq.ft)

Total Parking Stalls
 P1 90 Parking Stalls

2 Parking Level - P1
 Scale: 1/200

MSAi
 MECHANICAL ENGINEERS AND
 ELECTRICAL ENGINEERS
 100 Dundas Street West, Suite 1100
 Toronto, Ontario M5G 1C5
 Tel: 416-593-8888

ONTARIO ASSOCIATION OF ARCHITECTS
 ARCHITECTS
 100 Dundas Street East, Suite 1100
 Toronto, Ontario M5G 1C5
 Tel: 416-593-8888

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	SEP 2021
2	REVISED	SEP 2021

CLIENT:
 2691893 Ontario Inc.
 c/o IronPoint Capital
 Management Inc.

195 James Street South
 Hamilton ON, L8R 2L2

PROJECT:
 Retirement Home
 Development Concept
 442, 450, 454, 452
 Wilson Street East
 Ancaster, Ont.

SHEET TITLE:
 Preliminary
 Floor Plan

PROJECT NO: C0216	DATE: September 2021
SCALE: As Noted	SHEET NO: A1.5
DRAWN: ITSJ	
CHECKED: ITSJ	
FILE NO: C0216	



MSAi

MECHANICAL ENGINEERING AND
 ELECTRICAL ENGINEERING
 100 Dundas Street West, Suite 200
 Toronto, Ontario M5G 1A5
 Tel: (416) 593-8888



NO.	REVISIONS:	DATE:

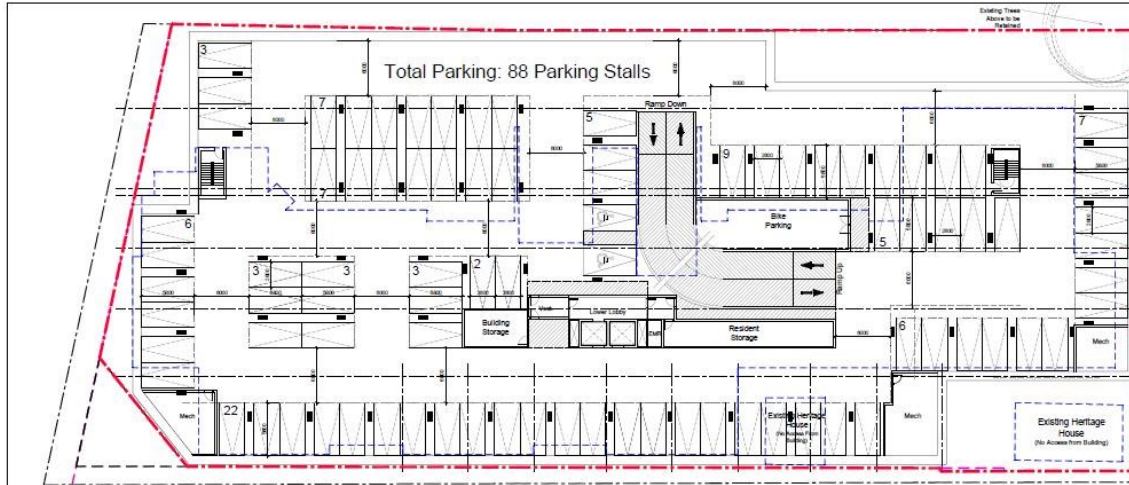
CLIENT:
 2691893 Ontario Inc.
 c/o IronPoint Capital
 Management Inc.

195 James Street South
 Hamilton ON, L8R 2L2

PROJECT:
 Mixed Use
 Development Concept
 442, 450, 454, 462
 Wilson Street East
 Ancaster, Ont.

SHEET TITLE:
 Preliminary
 Elevations

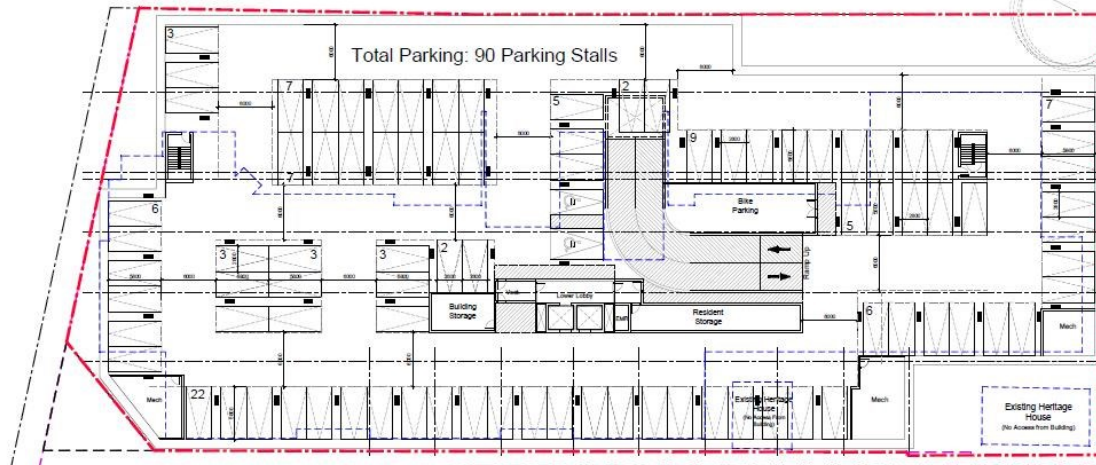
PROJECT NO.: CS016	
SCALE: As Noted	DATE: September 2021
DRAWN: R531	SHEET NO.:
CHECKED: R531	A2.1
FILE NO.: CS016	



Parking Level -1 (214.75)
 P1 - Underground Level
 Area: 4,689 sq.m (50,473 sq.ft)

Total Parking Stalls	
P1	88 Parking Stalls
P2	90 Parking Stalls
Total	178 Parking Stalls

1
 A1.5 Parking Level - P1
 Scale: 1:200



Parking Level -2 (211.05)
 P2 - Underground Level
 Area: 4,689 sq.m (50,473 sq.ft)

Total Parking Stalls	
P1	88 Parking Stalls
P2	90 Parking Stalls
Total	178 Parking Stalls

2
 A1.5 Parking Level - P2
 Scale: 1:200

MSAI

MULTI-SCALE ARCHITECTURE INC.
 100 Dundas Street West, Suite 1000
 Toronto, Ontario M5G 1C5
 Tel: 416-593-9888 Fax: 416-593-9889



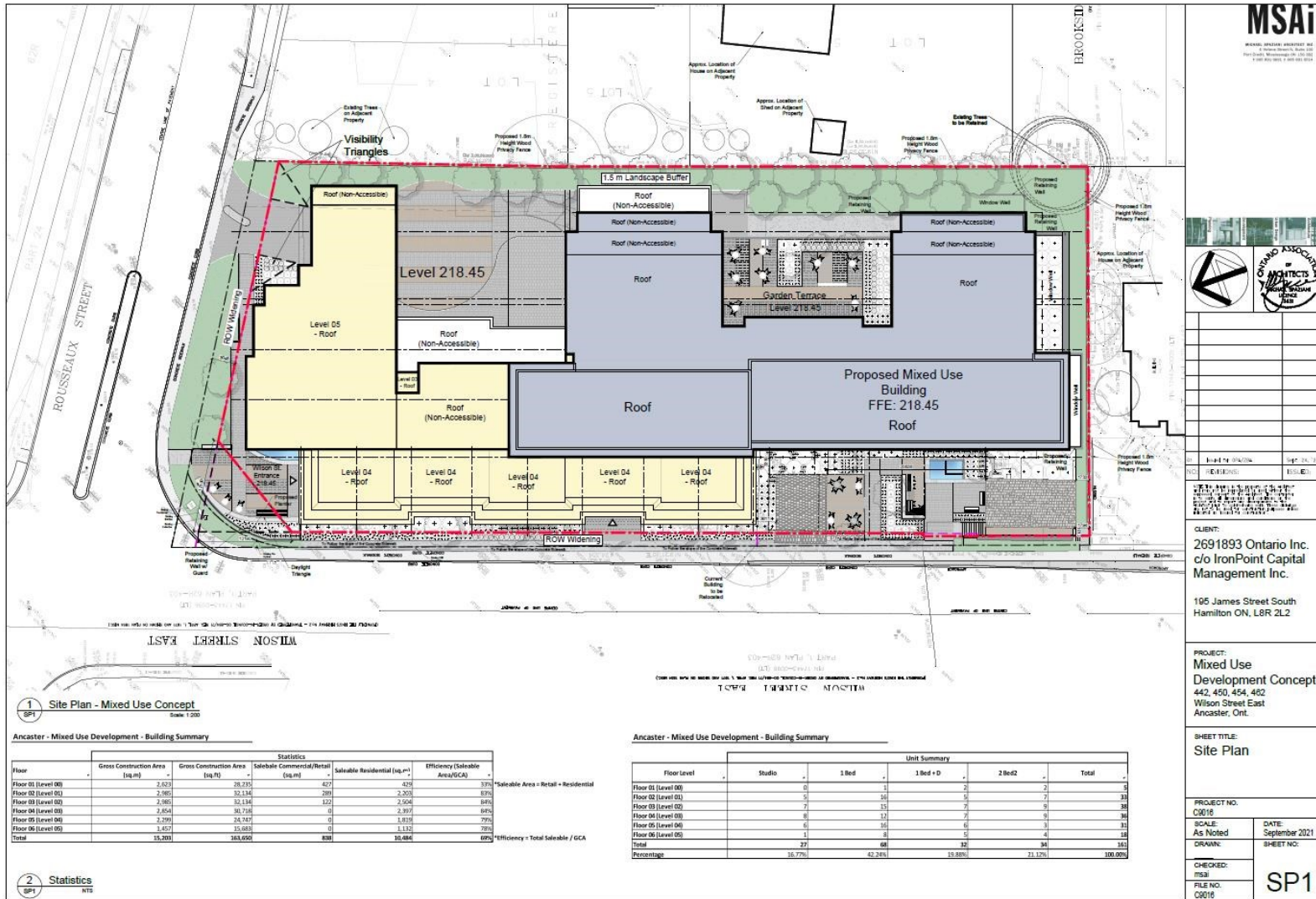
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DRAWN: MSB	CHECKED: MSB
FILE NO: C0216	SHEET NO: A1.5

CLIENT:
 2691893 Ontario Inc.
 c/o IronPoint Capital
 Management Inc.
 195 James Street South
 Hamilton ON, L8R 2L2

PROJECT:
 Mixed Use
 Development Concept
 442, 450, 454, 462
 Wilson Street East
 Ancaster, Ont.

SHEET TITLE:
 Preliminary
 Floor Plan

PROJECT NO: C0216	
SCALE: As Noted	DATE: September 2021
DRAWN: MSB	CHECKED: MSB
FILE NO: C0216	SHEET NO: A1.5



MSAI
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 Fax: 416-593-9201

ONLINE ASSOCIATION OF ARCHITECTS
 195 James Street South
 Hamilton, Ontario L8R 2L2

Client: 2691893 Ontario Inc. c/o IronPoint Capital Management Inc.
 195 James Street South Hamilton ON, L8R 2L2

Project: Mixed Use Development Concept
 442, 450, 454, 462 Wilson Street East Ancaster, Ont.

SHEET TITLE: Site Plan

PROJECT NO: C0216
 SCALE: As Noted DATE: September 2021
 DRAWN: SHEET NO:
 CHECKED: R531
 FILE NO: SP1
 C0216

1 Site Plan - Mixed Use Concept
 Scale 1:200

Ancaster - Mixed Use Development - Building Summary

Floor	Statistics			Efficiency (Saleable Area/GCA)	*Efficiency = Total Saleable / GCA
	Gross Construction Area (sq.m)	Gross Construction Area (sq.ft)	Saleable Commercial/Retail (sq.m)		
Floor 01 (Level 00)	2,423	26,235	427	42%	33%
Floor 02 (Level 01)	2,985	32,134	289	23%	87%
Floor 03 (Level 02)	2,985	32,134	322	25%	84%
Floor 04 (Level 03)	2,654	28,728	0	0%	0%
Floor 05 (Level 04)	2,299	24,747	0	0%	0%
Floor 06 (Level 05)	1,457	15,683	0	0%	0%
Total	15,203	163,606	838	5%	60%

2 Statistics
 NTS

Ancaster - Mixed Use Development - Building Summary

Floor Level	Unit Summary					Total
	Studio	1 Bed	1 Bed + D	2 Bed2		
Floor 01 (Level 00)	0	1	2	0		3
Floor 02 (Level 01)	5	54	5	7		71
Floor 03 (Level 02)	7	15	7	9		38
Floor 04 (Level 03)	8	12	7	9		36
Floor 05 (Level 04)	6	34	6	3		50
Floor 06 (Level 05)	1	8	5	4		18
Total	27	68	32	36		163
Percentage	16.57%	42.34%	19.88%	21.12%		100.00%



Rousseaux and Wilson corner



Wilson Street looking north



Rousseaux looking southwest



20 Rousseaux backyard fall winter



View of site looking south west



454 Wilson Street East



450 Wilson Street East



442 Wilson Street East



View of site looking south from Rousseaux Street



View of site looking west from Brookside Avenue



View looking south on Wilson Street East



View looking south on Wilson Street East continued



View looking north on Wilson Street East



View looking north on Wilson Street East continued



436 Wilson Street East



469 Wilson Street East



437 Wilson Street East



425 Wilson Street East



View looking west on Rousseaux Street



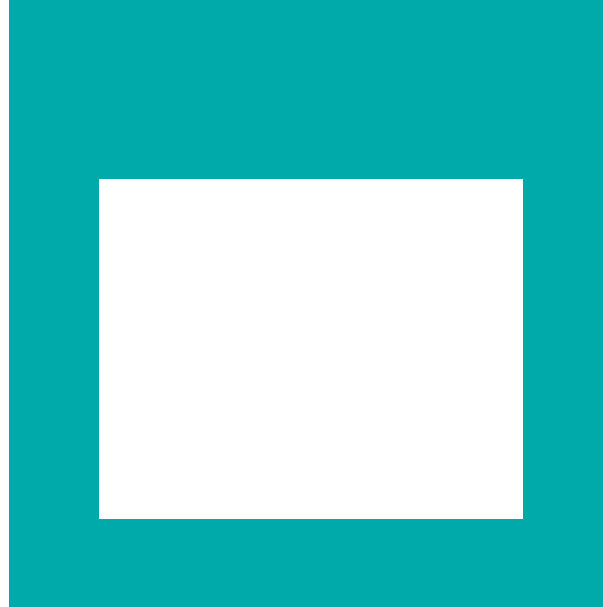
View looking east on Rousseaux Street



20 Rousseaux Street



View of properties looking north of site



THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

From: Paul Stever
Sent: Saturday, January 29, 2022 12:01 PM
To: clerk@hamilton.ca
Subject: 6/7 Storey Amica/Condo Development at Rousseau and Wilson Street

Hi,

Can someone explain why the building height limit is being broken to allow a 6/7 storey building and is this why the city is rushing the approval timelines? The people of Ancaster that I know as a resident do not want 6/7 storey buildings and questioning why city political/management ignores the rules that have been in place for many years and accelerates a process to allow it to be approved will cause a lot of problems and this will not go away quietly. Who is pushing for this and why?

The Hamilton downtown needs more development to revitalize that area and has long been approved for high storey buildings. Why is the city not telling developers you cannot ask for a height change restriction after purchasing property in Ancaster? They should be telling developers to buy property in the city where the wanted building height is allowed and approved.

Several years ago, politicians or city management completed studies for the high level of traffic congestion. How will adding high rise densely populated buildings assist this as it is not just the added residents but also all the services and support that will greatly increase congestion?

Best Regards,
Paul Stever
Ancaster Resident

From: Debra Mills

Sent: Saturday, January 29, 2022 2:17 PM

To: Pauls, Esther <Esther.Pauls@hamilton.ca>; Judi Partridge <judi.partidge@hamilton.ca>; Pearson, Maria <Maria.Pearson@hamilton.ca>; Office of the Mayor <Officeofthe.Mayor@hamilton.ca>; Whitehead, Terry <Terry.Whitehead@hamilton.ca>; Jackson, Tom <Tom.Jackson@hamilton.ca>; VanderBeek, Arlene <Arlene.VanderBeek@hamilton.ca>; Clark, Brad <Brad.Clark@hamilton.ca>; Johnson, Brenda <Brenda.Johnson@hamilton.ca>; Danko, John-Paul <John-Paul.Danko@hamilton.ca>; Ferguson, Lloyd <Lloyd.Ferguson@hamilton.ca>; Wilson, Maureen <Maureen.Wilson@hamilton.ca>; Merulla, Sam <Sam.Merulla@hamilton.ca>

Cc: clerk@hamilton.ca

Subject: 442, 450, 454, 462 Wilson street east Ancaster

URBAN Hamilton Official Plan Amendment File no UHOPA-21-023

I am writing with my concerns regarding the very short timeline given to address the staff report of this zoning change February 9, and the public meeting on February 15.

Since when are there only 6 days for the public to review and respond to zoning changes and development plan?

Does not the sign on site have to be there for 90 days prior to the public meeting? The sign has been on site but did not include a public meeting date.

This development is a shame and an insult to the residents of Ancaster. Are not zoning laws created so this exact situation cannot happen?

I strongly oppose the short time period for this review, the zoning change which is despicable and the planned development which is horrendous and completely out of place in this small heritage town.

Debra Mills

From: Heather Bull
Sent: Saturday, January 29, 2022 2:46 PM
To: clerk@hamilton.ca
Subject: Amica Development Wilson/Rousseaux Street Ancaster

To Whom it may concern,

As this monstrosity seems to break every bylaw ever written; why are the Planning Committee and Council even bothering to waste time debating it's approval?

Sincerely,

Heather Bull

From: Grant, Christina
Sent: Saturday, January 29, 2022 12:06 PM
To: clerk@hamilton.ca; loyd.ferguson@hamilton.ca
Subject: Condo/Senior's Home at Rousseaux & Wilson, Ancaster

To Whom It May Concern,

As residents of Ancaster we are dismayed at the unreasonably short timeline for approval for this project which has such significant impact on the historic Ancaster Centre with respect to traffic & not to mention, the 6-7 storeys above the current limit. Have u consulted with the residents? Why is there such a rush?

We are very disappointed in our local government.

Dr. C. Grant & Sheldon Norton

From: Thomas Beckett
Sent: Saturday, January 29, 2022 12:04 PM
To: clerk@hamilton.ca
Subject: Ancaster Development Note

City Clerk,

Please read below and let me know your thoughts. This project in this location must be stopped immediately!

Thank you,

Tom Beckett

From: Thomas Beckett
Sent: January 29, 2022 12:00 PM
To: Lloyd.Ferguson@hamilton.ca <Lloyd.Ferguson@hamilton.ca>
Subject: Ancaster Development Note

Hello Lloyd,

I have a lot of respect for many things you've done for Ancaster, however this Amica/condo development at the corner of Wilson and Rousseaux Streets is an outrageous development ! Have you and the developers lost your mind? Have the developers taken into consideration where this property is actually located?

In my opinion, the Brandon House should be rebuilt by the developer stone by stone and put back to its original splendor as the gateway to Ancaster. That just may earn them some respect among fellow Ancaster residence. Then purchase land in another area of Ancaster where there is proper space for such a facility.

The traffic gridlock is already too congested in this area of Ancaster.

Please do your best to make sure this development ends NOW and is relocated to another area.

It needs your immediate attention Lloyd! Is power, money and greed the only thing that runs this town? Have some integrity and show the town you care and end this terrible project now.



Thank you for your help on this. I look forward to hearing from you and how you intend to proceed.

Sincerely,

Tom Beckett

From: Sandy Tod <sandytod65@gmail.com>
Sent: Saturday, January 29, 2022 6:54 PM
To: clerk@hamilton.ca
Subject: Wilson street Amica

Dear sir,

Firstly it is disappointing that you would even entertain reviewing a proposal that comes no where near the current development guidelines for Ancaster's downtown core.

In my view the short time line proposed is an insult to the residents who were attracted to Ancaster's core with current development guidelines.

I would hope that the planning committee and council do the right thing and send this right back to the developer, requesting that they apply for something that meets the current development guidelines.

The development they are proposing is more suitable to a location like Cancun Mexico!

Regadrs,
Sandy

Sandy Tod

From: Julie Palmese

Sent: Sunday, January 30, 2022 7:52 PM

To: clerk@hamilton.ca; Ferguson, Lloyd <Lloyd.Ferguson@hamilton.ca>

Subject: timeline for Wilson and Rousseaux proposal

On behalf of the 5 voters in my household, we are not being given enough time to respond to the upcoming Planning Committee Recommendation should it be approved. Of course, it makes no sense to approve it but just in case, we deserve more time to respond.

The Palmese Family

January 30, 2022

Legislative Coordinator
Planning Committee
City of Hamilton
71 Main Street West, 1st Floor
Hamilton Ontario L8P 4Y5

**442, 450, 454, 462 Wilson Street East, Ancaster
Urban Official Plan Amendment (File No. UHOPA-21-023)
Zoning By-Law Amendment (File No. ZAC-21-049)**

Dear Legislative Coordinator

I write to you to express my opposition to the 2 files named above. I am an Ancaster resident and was born and raised in the Town of Ancaster and witnessed the ever increasing disintegration of the Town character since the amalgamation with the City of Hamilton. I have fond memories of Ancaster village and of its various characteristics which are now under assault; we are not the City of Hamilton we are the Town of Ancaster.

It is my understanding that the current Official Plan for Ancaster Village was a lengthy and expensive process involving the taxpayers of Ancaster and I oppose efforts to set that aside for the sake of increased intensification and building permit fees.

More specifically to the applications the current maximum building height cited in the General Provisions of Ancaster Zoning By-Law No. 87-57 is stated as 10.5m which to my understanding will not accommodate more than a 3 storey building yet this application is for a 7 storey building, I oppose any height increases beyond 10.5m.

From an infrastructure perspective there are several concerns I wish to raise as follows:

- Traffic Load

Wilson Street in the village area is currently experiencing traffic overload conditions during rush hours as can be witnessed with traffic backups west of Rousseau in the morning and east of Rousseau in the evenings, adding traffic with this proposal will only exacerbate the situation.

- Intersection Conditions at Wilson Street East and Rousseau

The maximum design grade for a stop street at an intersection is 2.5% but according to City engineering drawings the current grade on Wilson Street East approaching Rousseau from the west is 5.7% which makes stopping difficult under dry conditions, very difficult under wet conditions and hazardous under winter conditions. This intersection is already

hazardous for able bodied-pedestrian crossing; adding seniors with walking aids will be highly problematic.

Max. Grade at Stop Roads at Intersections (%)	2.5%	2.5%	2.0%
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- Sanitary Sewer and Pumping Station Capacity

Sanitary effluent from this site according to the Functional Servicing Report will be conveyed to an existing 200mm sanitary main on Rousseau which is at a slope of 1.6% and thus has a full flow capacity of 38 l/s. However the maximum flow design for sanitary mains in Hamilton is 75% of full flow capacity; this being the case the maximum design flow for this main is 29 l/s.

E.1.7. Capacities, Velocities and Sizes

Sanitary sewers shall be designed to flow at a maximum of 75% full design capacity of the pipe for sizes up to and including 450 mm diameter. Pipes shall be designed to capture all external catchment areas. Trunk sanitary sewers (525 mm diameter and above) shall be designed to flow at a maximum of 60% full design capacity of the pipe.

The proposed development is estimated in the Functional Servicing Report to generate an average flow of 1.7 l/s over a 24 hour period but in terms of peak flow this must be increased 5 times to 8.5 l/s which is 29% of the maximum permissible daily flow. However, this same main is currently servicing a substantial area (see below) and may already be at capacity before increasing loading with flows from the proposed site.



This existing 200mm sanitary main then conveys the effluent down Old Dundas Road to an existing sanitary pumping station which then pumps to the effluent back up. It is well known that there are currently overloading conditions on this pumping station which result in sanitary effluent backing up into basements nearby; adding effluent flow to this will only exacerbate the situation.

These are some of the reasons for my concern and opposition to the application for amending the Official Plan and Zoning for this site under files **UHOPA-21-023** and **ZAC-21-049**. Thank you for ensuring this letter will appear before the Planning Committee of the City of Hamilton in keeping with requirements.



Jim Enos



Sent: Monday, January 31, 2022 12:03 PM

To: clerk@hamilton.ca

Subject: Amica proposal at Rousseau and Wilson intersection Ancaster, ON

Please consider this email as a protest against the size and scale of the proposed development. It does not comply with the by-laws, or the Official Plan and blatantly disregards the many expressions of Ancaster citizens who are against high density development in the old core.

The taxpayers of Ancaster are totally against this scale of development in the historic part of the Town.

Please respect our by-laws.

Maxine Morris-Zecchini

From: Anita Dinning
Sent: Monday, January 31, 2022 2:51 PM
To: clerk@hamilton.ca
Subject: Notice of public meeting of Planning Committee for amendment and zoning by law amendment, 450, 454, 462 Wilson St.

January 31, 2022

MEMORANDUM

TO: clerk@hamilton.ca, The Planning Committee, Traffic Dept.

FROM: Anita Dinning, Resident of Ancaster

RE: Official Plan Amendment (File No. UHOPA-21-023)

To permit a seven storey retirement home and four commercial units

And one level of underground parking etc. (442, 450, 454 and 462 Wilson St. East)

I am responding to the notice of public meeting article in The Hamilton Spectator regarding the above-noted construction in Ancaster. I am totally **against** any revision to the Plan due to the existing dangerous traffic situation at the intersection of Wilson St. and Rousseaux Streets in Ancaster.

I am a resident of Ancaster and a senior. I have noticed that over the past 20 years traffic on Wilson St. has increased due to car volume and new business traffic as well as old business in this area. This has become a very congested and dangerous intersection and very little has been done to alleviate the problem.

Both students and seniors need to use the bus and walking down to the corner of Rousseaux Street where it meets Wilson Street has become very dangerous. This corner has become very busy and it is both difficult and dangerous to cross over from Wilson St. over Rousseaux St. I have almost been hit by a car that has been turning right from Wilson St. Rousseaux. The vehicles do not stop for the light and therefore you cannot cross the street to get to the other side. No one stops their vehicle so that pedestrians can cross the street. There needs to be a wide green painted crosswalk in this area such as is painted along Charlton and Queen Sts. In the City.

Now with this new build on the corner of Wilson and Rousseaux Sts will even congest this corner even more. I know that someone will be hit by a vehicle and killed on this corner soon. I myself have had close encounters with vehicles in this intersection trying to cross the street.

I would suggest the City purchase the corner lot no. 462 and revise the traffic plan to put in a right hand lane from Wilson St. to turn onto Rousseaux St. to help alleviate some of the congestion.

The other suggestion is that all lanes have stop lights flashing red at the same time to stop the traffic and allow pedestrians to cross the street in any direction. There should be NO right hand turns allowed on a red light as

vehicles do not stop for pedestrians therefore we cannot cross the street safely.

Also, the new building must not have access to Wilson or Rousseaux St. at this interection. The new build must use Brookside or Lodor for their driveways to enter and exit this area to avoid adding to the congestion.

Also adding to the traffic congestion are the buses that stop at the bus stops along Wilson and Rousseaux Sts.

Also, when there is an accident on Hwy. 403 all the traffic diverts to Wilson St. and this traffic causes congestion and a dangerous situation at the corner of Wilson and Rousseaux Sts. due to the increased traffic volume.

Thank you for your consideration.

ANITA DINNING

From: Karen Hanna
Sent: Monday, January 31, 2022 5:02 PM
To: clerk@hamilton.ca
Cc:
Subject: Wilson Street development

Hello, we are writing to express our concern about the developments under review for Wilson Street that go well above the height guidelines for this historic town. It is hard to imagine these buildings looming over the neighbourhood and the increase to traffic that is already a challenge at times.

Intensification is desirable and welcome in a manner that brings vitality to Ancaster without dominating the landscape and dwarfing the existing structures.

Many thanks,
Ian and Karen

From: Patricia Cole-Stever
Sent: Wednesday, February 2, 2022 5:14 PM
To: clerk@hamilton.ca
Subject: Complaint regarding Allotted Response time

To the Attention of the City Clerk of the City of Hamilton

I am writing to lodge a complaint and express my dissatisfaction with the decision to only provide the Ancaster Village Heritage Community, its supporters and all community members with a short, 6-day response time to express concerns, objections and comments to the City of Hamilton Planning Committee regarding the proposed development at the corner of Rousseaux and Wilson Streets in Ancaster (Subject Property: 442, 450, 454, 462 Wilson St., E, Ancaster).

I understand that a City staff report is due to be released on February 9/22 regarding this site and then the Planning Committee meeting regarding it, is set less than a week later, on February 15th/22 to release their decision on it. This is an unacceptably short time frame and I respectfully ask that more time be provided so that all who wish to respond can, and further, that their submissions be absorbed and considered in full by the Planning Committee.

Respectfully,
Patti Cole-Stever

From: pada venus

Sent: Wednesday, February 2, 2022 5:48 PM

To: clerk@hamilton.ca

Subject: Proposed Amica or Condo Development Files: ZAC-21-049 UHOPA-21-023 Wilson St. East, Ancaster

We strongly oppose the short timeline for consideration of the proposed Official Plan Amendment at 442, 450, 454, and 462 Wilson St. East, Ancaster. The staff report is not available until February 9th, and it is unconscionable to expect responses from the public a mere five days later, by February 14th, one day before the Planning Committee meets. This is not a reasonable notice period for such an important amendment proposal, and denies public input.

Residents of Ancaster are not afforded a reasonable period of time for understanding and considering the implications of these applications.

Kindly submit this email to support revised and extended timelines for public input with respect to these Official Plan Amendment applications.

Pat Venus

David Venus

From: Gen
Sent: Thursday, February 3, 2022 10:02 AM
To: clerk@hamilton.ca
Subject: Zoning By-Law Amendment (File No. Zac-21-049)

I am a senior and have lived in Ancaster for about 30 years. My husband lived with his family prior to that for many years on Lorne Ave. I still live on Lorne Ave. which is a Cul-de-sac. We are the second owners of this home since it was built in 1952.

Our street is small and only has 5 houses on either side.

I fear if the Marr house is moved to the top of Lorne Ave. they will have to open Lorne Ave. up to Wilson.

The traffic now is outrageous. On any given day at least 5-10 cars turn up onto Lorne thinking it is open to Wilson. In the summer it is worse.


I am not opposed to the Wilson St. Project unless they want to open up Lorne Ave.

I would like to be informed of the decision of the City of Hamilton on the proposed Official Plan Amendment and Zoning By-Law Amendment.

Thank you
Genevieve



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
General Manager's Office

TO:	Mayor and Members Planning Committee
COMMITTEE DATE:	February 15, 2022
SUBJECT/REPORT NO:	Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Rob Lalli (905) 546-2424 Ext. 4674 Julia Davis (905) 546-2424 Ext. 2632
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the City's existing "On-Street Patio Pilot Program" and temporary COVID "Outdoor Dining Districts Program" be combined into a permanent program to permit Temporary Outdoor Patios on both public and private property based on the terms and conditions outlined in Report PED22051;
- (b) That the General Manager of Planning and Economic Development, or designate be delegated the authority to make minor amendments to the terms and conditions for the Temporary Outdoor Patio program as required;
- (c) That staff be directed to include an annual application fee and any other relevant fees for the Temporary Outdoor Patio Program, for both public and private property, as part of the annual User Fee By-law;
- (d) That staff be directed to include applicable fees for the occupation of public or metered parking spaces specifically relating to the Temporary Outdoor Patio program use, as part of the annual User Fee By-law; and,
- (e) That the applicable fee for public rights of way be applied for the temporary use of a sidewalk, alleyway, or boulevard for the purpose of a Temporary Outdoor Patio,

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.

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 2 of 14

and that the Chief Corporate Real Estate Officer be authorized and directed to prepare or modify any temporary lease or license agreement fee rates accordingly, effective January 1, 2022.

EXECUTIVE SUMMARY

The City of Hamilton has enacted two separate but related programs to create opportunities for bars, restaurants and cafes to provide for outdoor dining on temporary patios.

The “On-Street Patio Pilot Program” was initiated in 2016 as a pilot project and became permanent in 2017. It allows bars, restaurants and cafes to occupy one or more on-street parking spaces in front of their businesses as a temporary “pop-up patio”.

The “Outdoor Dining Districts Program” was approved by Council in May 2020 in response to the COVID-19 pandemic. It expands on the on-street patio program by providing for temporary patios on public property (including streets, sidewalks, boulevards and off-street parking areas) and on private property such as the parking areas of malls and strip malls.

While the “On-Street Patio Pilot Program” is a permanent City program that extends from May 1 to October 31 of each year, the Outdoor Dining Districts Program is a temporary program that expired on December 31, 2021.

On November 10, 2021 Council approved Planning Committee Report 21-017 which directed as follows:

That the appropriate staff be requested to report back to Council with options and the necessary policy or by-law changes to maintain the Outdoor Dining Districts program on a permanent basis, alongside the existing on-street temporary patio program

The purpose of this Report is to respond to the November 10, 2021 Council direction. This report recommends that the already-permanent “On-Street Patio Pilot Program” and the temporary COVID-related “Outdoor Dining Districts Program” be combined into a single, consolidated Temporary Outdoor Patio Program and that it be made a permanent City program.

Alternatives for Consideration – See Page 13

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 3 of 14

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The recommended Temporary Outdoor Patio Program would be operated on a fee-recovery basis, similar to the existing On-Street Patio Pilot Program.

Current Fees

The City's Tax Supported User Fees By-law for 2022 establishes a fee for applications for temporary On-Street Patio Program of \$676.11. There are currently no application fees for the Outdoor Dining Districts program. However based on the specific requests within each application, the following City fees may apply:

- any patio that occupies an on-street or off-street municipal parking space is required to pay the Occupation of Public/Metered Parking Spaces fee;
- where a patio temporarily occupies City property that is not an on-street or off-street public parking space, a Temporary Lane & Sidewalk Occupation Permit is required for the use of the property; and,
- any patio or group of patios that require a full road closure is required to pay a road closure application fee as well as all costs associated with the execution of the closure including the hiring of a third party traffic management company to plan and implement the closure, additional signage, detouring of transit, etc. as required.

Recommended Fees

The fees for the Temporary Outdoor Patio Program will be established through the User Fee By-law in 2023 including application fees for both municipal and private property. These fees will be in line with the administration required by staff and will be reviewed annually through the User Fee By-law.

In addition to the application fees to be established, the following City fees may be applied based on the requirements identified on the application:

- any patio that occupies an on-street or off-street municipal parking space is required to pay a "Temporary Patio Occupation of Parking Space" fee of \$875 per space;

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 4 of 14

- any patio that occupies an on-street or off-street municipal parking space may be required to pay a “Temporary Patio Installation of Safety Devices” fee for the installation and maintenance of required safety devices (knock down bollards, hazard marker signage, planters, etc.) of \$800 per application;
- where a patio temporarily occupies City property that is not an on-street or off-street public parking space, and is a public right of way, such as the public sidewalk, alleyways or road allowances, a fee of \$54.67 per 14 days for a partial closure or \$118.42 per 14 days a full closure is charged for the use of the property (the City may enter into a market rate lease/licence agreement for the use of public property and City-owned private property in certain circumstances); and,
- any patio or group of patios that require a full road closure will be required to pay a road closure application fee of \$721.24 as well as all costs associated with the hiring of a third party traffic management company to plan and execute the closure and as required.

It is important to note that any proposals for permanent patios that would permanently occupy public property, City-owned private property, or other private property would not be part of the Temporary Outdoor Patio Program and would be reviewed on a case-by-case basis in accordance with the City’s normal real estate and leasing/licencing policies.

Post-COVID Economic Recovery Fee Exemption

On January 19, 2022, Council approved GIC Report 22-001 which included a direction to waive all City fees for temporary patios for 2022; therefore, the fees outlined above would not be applicable in 2022.

Staffing: There are no staffing implications associated with the administration of this program. The Temporary Outdoor Patio Program would be administered by the Commercial Districts & Small Business Section of the Economic Development Division.

Legal: N/A

HISTORICAL BACKGROUND

The City of Hamilton has enacted two separate but related programs to create opportunities for bars, restaurants and cafes to provide for outdoor dining on temporary patios.

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 5 of 14

On June 22, 2016, Council approved Report PED16119 establishing a pilot project for an “On-Street Patio Pilot Program.” The pilot program allowed bars, restaurants and cafes to occupy one or more on-street parking spaces in front of their businesses as a temporary “pop-up patio”. On March 18, 2017 Council approved Report PED16119(a) establishing the “On-Street Patio Pilot Program” as a permanent program.

On May 13, 2020, in response to the COVID-19 pandemic, City Council approved a motion creating the “Outdoor Dining Districts” initiative: It provides for temporary patios on (a) public property including streets, sidewalks, boulevards and off-street parking areas and (b) private property such as the parking areas of malls and strip malls. The “Outdoor Dining Districts” initiative was originally approved up until “Summer/Fall 2020” with all approvals to expire by the end of November 2020. On October 13, 2020, Council approved Report PED20169 which extended the program to October 31, 2021. While the “On-Street Patio Pilot Program” is a permanent City program and will resume again on April 1, 2022, the Outdoor Dining Districts Program is a temporary program that expired at the end of December 2021.

On November 10, 2021 Council approved Planning Committee Report 21-017 which directed as follows:

That the appropriate staff be requested to report back to Council with options and the necessary policy or by-law changes to maintain the Outdoor Dining Districts program on a permanent basis, alongside the existing on-street temporary patio program

In parallel with the reports described above, through 2020 and 2021 Council approved a series of Temporary Use By-laws that allowed for patios to be established in locations that would not otherwise be permitted under the City’s Zoning By-law. These provisions are described later in this report under Policy Implications and Legislated Requirements.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Zoning By-laws

Temporary patios must meet all applicable City zoning requirements. In general, the City’s zoning only allows for patios in commercial areas. Furthermore, there are various other restrictions, such as setbacks from residential uses.

As part of the COVID “Outdoor Dining Districts” initiative, Council also approved temporary changes to the City’s zoning by-laws to permit patios in some locations that would not otherwise be permitted under the City’s Zoning By-laws.

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 6 of 14

On August 21, 2020, City Council approved Report PED20135 which established Temporary Use By-law 20-181 to permit outdoor commercial patios, under certain conditions, in a side or rear yard that abuts a residential lot for certain commercial lands. The Temporary Use By-law also allowed entertainment on outdoor commercial patios within the Downtown area. The By-law was originally in effect until December 31, 2020. On October 6, 2020, Council approved Report PED20135(a) which extended Temporary Use By-law 20-181 until October 31, 2021 and added a new regulation to allow temporary outdoor commercial patios to be located within required parking spaces. Report PED20135(a) also established another Temporary Use By-law 20-214 to allow temporary tents for restaurants, places of worship, hospitals and schools for six consecutive months whereas the current Zoning By-law No. 05-200 restricts the erection of temporary tents to five consecutive days.

Planning staff are currently reviewing Temporary Use By-law 20-181, 20-214 and 21-143 and will be reporting back to Council with recommendations for further extending the timeline for these temporary provisions.

Liquor Licensing

Business owners who wish to serve liquor on their Temporary Outdoor Patio would need to obtain a liquor license through the AGCO.

Normally, to extend a license to a patio, an existing licensed establishment would have to obtain a permanent licence extension through the AGCO and pay an application fee of \$815.00. As part of obtaining a licence extension for a patio, the City is required to provide comments and Public Health and Fire inspections are undertaken once the patio is constructed. The fee for the addition of an outdoor patio to an existing liquor licence, including City comments and inspections is \$561.83 (inclusive of HST), as per the User Fee By-law, reviewed and updated annually.

Alternatively, for a temporary patio, an existing licensee could apply to the AGCO for a temporary extension of premises, which may be authorized for up to 14 days and for a maximum of four times each year. The City of Hamilton requires a notification form that is circulated to applicable departments, which comes at a cost of \$222.00 (inclusive of HST) as per the User Fee By-law reviewed and updated annually.

In June 2020, the Province introduced Regulation 719 which allows licensees to temporarily extend their license to a patio without needing to notify or submit an application to the AGCO, provided that they meet all the eligibility criteria and applicable requirements. This regulation was replaced in November 2021 with Regulation 746 which requires that operators meet the following criteria, as applicable:

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 7 of 14

1. The physical extension of the premises is adjacent to:
 - a. the premises to which the licence to sell liquor applies; or
 - b. a dock to which the boat is attached and may include land adjacent to the dock; or
 - c. the licensed premises under the by-the-glass endorsement to a Manufacturer's Licence.
2. The municipality in which the premises is situated has indicated it does not object to an extension;
3. The licensee is able to demonstrate sufficient control over the physical extension of the premises;
4. There is no condition on the licence or endorsement prohibiting a patio;
5. The capacity of any new patio, or extended patio space where the licensee has an existing licensed patio, allows for at least 1.11 square metres per person; and,
6. In the case of a by-the-glass endorsement to a Manufacturer's Licence, the sale and service of the wine, beer and/or spirits manufactured by the manufacturer within the physical extension of the premises is primarily aimed at promoting the manufacturer's product and either providing an enhanced tourist experience or fulfilling an educational purpose.

This updated regulation is in place until January 1, 2023.

Noise By-law

Municipal Law Enforcement Officers would continue to enforce the Noise By-Law 11-285 as it applies to the Temporary Outdoor Patio Program. Unreasonable noise or noise that is likely to disturb the inhabitants of the City is not permitted, this may include: a radio, amplifier, speaker on a patio, live bands on a patio without permit, also a TV on a patio that is heard throughout the neighbourhood.

Section 3 (1) of the Noise By-law 11-285 states:

- 3.(1) No person shall make or permit to be made:
 - (a) an unreasonable noise; or
 - (b) a noise that is likely to disturb the inhabitants of the City.

SUBJECT: Permanent Program for Temporary Outdoor Patios (PED22051) (City Wide) - Page 8 of 14

RELEVANT CONSULTATION

The following City divisions were consulted in preparing this Report:

- Corporate Real Estate Office, Economic Development Division;
- Commercial Districts & Small Business Section, Economic Development Division;
- Parking Operations and Initiatives Section, Transportation Planning and Parking Division;
- Planning Division;
- Licensing and By-law Services Division;
- Chief Road Official, Public Works Department; and,
- Engineering Services Division, Public Works Department.

Hamilton's 13 Business Improvement Areas (BIAs) were also consulted respecting their support for the Temporary Outdoor Patio Program.

Staff in the Economic Development Division undertook a survey in September 2020 of participants in the summer 2020 Outdoor Dining District program. The survey was emailed to all participants in the Outdoor Dining District and On-Street Patio Pilot programs. The results of this survey are summarized in the Analysis and Rationale Section of this report.

On September 24, 2021, staff gave a presentation on the temporary patio program to the Advisory Committee for Persons with Disabilities. The Temporary Outdoor Patio Program will continue to ensure compliancy with the Accessibility for Ontarians with Disabilities Act (AODA) when undertaking review of every application.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The "On-Street Patio Pilot Program" has operated successfully since 2016. Over the past four years, the program has had the following number of participants:

- 2018: 24 (Locke St BIA – 4; Westdale Village BIA – 4; Downtown Hamilton BIA – 4; International Village BIA -1; CIPA - 8; Ottawa St BIA – 2; Concession St BIA - 1)
- 2019: 14 (Westdale Village BIA – 5; Downtown Hamilton BIA – 2; International Village BIA - 1; CIPA - 4; Ottawa St BIA – 1; Concession St BIA - 1)
- 2020: 11 (Locke St BIA – 1; Downtown Hamilton BIA – 3; International Village BIA - 1; CIPA - 4; Ottawa St BIA – 1; Concession St BIA – 1)
- 2021: 27 (Locke St BIA – 4; Downtown Hamilton BIA – 10; Concession St BIA – 3; Ottawa St BIA – 2; CIPA – 8)

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Business uptake for the “Outdoor Dining Districts Program” has also been very high in both 2020 and 2021. Staff saw 177 businesses submit applications through all streams of the program in 2020 and then an increase of 14% to 201 businesses participating in the programs in 2021.

2020 Applications:

Ward	Private Property	City Property (Streets and Alleyways)	City Property (Parking Areas)	City Property (Sidewalks)	On-Street or Pedestrian By-Pass Structures
1	12	1	6	2	4
2	6	3	1	19	8
3	5	2	0	5	1
4	17	0	0	7	0
5	7	0	0	0	0
6	6	0	0	0	0
7	7	0	0	4	1
8	11	0	0	0	0
9	4	0	0	0	0
10	12	0	0	0	0
11	2	0	0	1	0
12	8	0	0	0	0
13	4	0	0	1	0
14	0	0	0	0	0
15	10	0	0	0	0

2021 Applications:

Ward	Private Property	City Property (Streets or Alleyways)	City Property (Parking Areas)	City Property (Sidewalks)	On-Street or Pedestrian By-Pass Structures
1	10	0	7	2	4
2	10	3	0	14	18
3	8	4	0	7	1
4	11	0	0	6	1
5	10	0	0	1	0
6	4	0	0	0	0
7	4	0	0	3	3
8	16	0	0	0	0
9	8	0	0	0	0
10	11	0	0	0	0
11	4	0	0	1	0

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.

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12	10	0	0	0	0
13	6	0	0	2	0
14	0	0	0	0	0
15	12	0	0	0	0

Staff in the Economic Development Division undertook a survey in September 2020 of participants in the summer 2020 Outdoor Dining District program. The survey was emailed to all participants in the Outdoor Dining District and On-Street Patio Pilot programs to gather information on the effectiveness of these programs and to ask respondents for their opinions on extending temporary patio permissions into 2021. Eighty-three (83) responses were collected. The results were very positive, with 89% of respondents stating that temporary outdoor patios were extremely important to their business. Overwhelmingly there was positive support when asked if respondents would like to have a temporary outdoor patio in 2021, 96.4% of survey respondents stated yes. The full results of the survey were presented to Council as Appendix "A" to Report PED20169.

Based on the success of the "On-Street Patio Pilot Program" since 2016, and the overwhelming response to the "Outdoor Dining Districts Program" through 2020 and 2021, staff are recommending that the two programs be merged into a single, permanent program for Temporary Outdoor Patios.

Temporary Outdoor Patios on Public Property

The following terms and conditions will apply for the permanent program for Temporary Outdoor Patios on public property, both on-street and off-street:

- a) Temporary Outdoor Patios permitted in any commercial area of the City where the applicable zoning allows for patios.
- b) Temporary Outdoor Patios may include patios, as well as temporary sidewalk bypass structures that are intended to create sidewalk space for a Temporary Outdoor Patio.
- c) Applications for Temporary Outdoor Patios be received through the Commercial Districts & Small Business Section of the Economic Development Division and circulated for cross-departmental review through a process based on the SEAT process.
- d) Patios be permitted to operate from April 1 to October 31 of each year, with staff given the delegated authority to extend the permitted period in exceptional circumstances, and where supported by the Transportation Operations and Maintenance Division of the Public Works Department.

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- e) All Temporary Outdoor Patios must follow all applicable public health requirements, including any COVID-related public health requirements, as well as all applicable Provincial Orders.
- f) Through the application process, staff ensure no negative impacts with respect to pedestrian safety, accessibility, emergency services, public transit, access to other businesses, delivery and pick-up, and other issues that are normally addressed through the SEAT review process. In cases where staff identify a potential impact on an adjacent property due to the location of the patio, staff may require the applicant to demonstrate that adjacent properties do not object to the temporary patio,
- g) A valid municipal business licence is required, and such licence remain in good standing for the duration of the proposal period for the Temporary Outdoor Patio, which includes submission of payment and renewal form on or before the expiry date as listed, as well as, but not limited to, following municipal, provincial and federal laws and by-laws, as required by Licensing By-law 07-170.
- h) Applicants are responsible for the management and operation of any approved Temporary Outdoor Patios, including ensuring that they are appropriately supervised by staff at all times when open, to ensure proper use, cleaning and physical distancing.
- i) The Ward Councillor will be notified of all applications for Temporary Outdoor Patios in advance of any approval or implementation. In addition, if an application is received for a location within the boundaries of a BIA, the BIA will also be notified.
- j) Patio operators must provide proof of commercial general liability insurance (\$5 million) coverage endorsed to include the City as additional insured.
- k) Temporary Outdoor Patios will not be required to undertake Site Plan review.
- l) Advertising, banners or signage is not permitted.
- m) The patio shall be compliant with the Accessibility for Ontarians with Disabilities Act (AODA).

In addition to the terms and conditions described above, for temporary patios that are **on-street**, the following **existing provisions** would also **continue** to apply:

- a) Require a Temporary On-Street Parking Permit from the Hamilton Municipal Parking System (HMPS) in order to be established.

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- b) Permitted in any legal on-street parking space (e.g. unrestricted, metered, or time-limited parking), but shall not be permitted in through traffic lanes, rush hour routes or lanes marked as no parking/no stopping/accessible parking.
- c) Require the written endorsement of the BIA, if located within the boundaries of a BIA.
- d) BIAs may establish a limit to the number of allowable on-street patios in their BIA area
- e) In the event that applications for patio locations exceed the number of legal parking spaces in a block or exceed the number of patios allowed in a BIA where the number of locations has been capped by the BIA, a lottery will be held annually to determine the approved locations
- f) On-street patio locations will generally be limited to occupying one parking space, though a second space may be permitted to facilitate safety.
- g) Electrical power cords or any other devices that cross the travelled portion of the boulevard (sidewalk) are not permitted.
- h) Setup or takedown of any structure or materials on the roadway can only be completed by those trained and qualified in the Ontario Traffic Manual (OTM) Book 7 Signing Requirements for Temporary Conditions.

Temporary Outdoor Patios on Private Property

For Temporary Outdoor Patios on private property, such as in the private parking areas of commercial plazas and malls, the following terms and conditions will apply:

- a) Temporary Outdoor Patios permitted in any commercial area of the City where applicable zoning allows for patios.
- b) Applications for Temporary Outdoor Patios be received through the Commercial Districts & Small Business Section of the Economic Development Division and circulated for cross-divisional review and comment.
- c) Patios be permitted to operate year-round with a requirement for application renewal annually.
- d) A valid municipal business licence is required, and such licence remain in good standing for the duration of the proposal period for the Temporary Outdoor Patio,

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which includes submission of payment and renewal form on or before the expiry date as listed as well as but not limited to following municipal, provincial and federal laws and by-laws, as required by Licensing By-law 07-170.

- e) The physical extension of the Temporary Outdoor Patio serving alcohol must be adjacent to the premises to which the licence to sell liquor applies.
- f) A new occupant load will not be set for the Temporary Outdoor Patio. The Temporary Outdoor Patio will act as an extension of the existing occupant load of the building.
- g) A Temporary Outdoor Patio will not be deemed to affect the parking supply for the purposes of minimum parking requirements.
- h) Temporary Outdoor Patios must be created as temporary uses with no permanent fixtures and no alterations that would require a Building Permit.
- i) Temporary Outdoor Patios on private property will not be required to undertake Site Plan review.
- j) The patio shall be compliant with the Accessibility for Ontarians with Disabilities Act (AODA) and shall be barrier free accessible where the existing establishment is barrier free accessible.

ALTERNATIVES FOR CONSIDERATION

Council could decide not to create the permanent program for Temporary Outdoor Patios. This would result in the on-street patio program continuing, as in previous years, but the Outdoor Dining Districts Program that allows for temporary patios in locations such as sidewalks, alleyways, streets and boulevards would not be available in 2022.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

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

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

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APPENDICES AND SCHEDULES ATTACHED

N/A

CITY OF HAMILTON

MOTION

PLANNING COMMITTEE DATE: February 15, 2022

MOVED BY COUNCILLOR M. WILSON.....

SECONDED BY COUNCILLOR

Nuisance Party By-law

WHEREAS, section 10 of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting: economic, social and environmental well-being of the municipality; health, safety and well-being of person; the protection of persons and property; and structures, including fences and signs;

WHEREAS, section 128 of the Municipal Act, 2001 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances and the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court;

WHEREAS, thousands of students participated in a “fake homecoming” party near McMaster University on Saturday October 2, 2021, which resulted in personal injuries, damage to property, an overturned vehicle and garbage and glass strewn throughout two neighbourhoods;

WHEREAS, there have been other situations and incidents in the city of Hamilton, including but not limited to, student orientation, St. Patrick’s Day celebrations, tail-gating parties and other sports-related celebrations, where parties quickly became uncontrollable, disruptive and dangerous to city of Hamilton residents;

WHEREAS, as a result of these types of nuisance parties, there is a significant strain put on city emergency services to ensure the safety and well-being of all residents;

WHEREAS, a number of other Ontario municipalities have implemented a nuisance party by-law that gives law enforcement personnel a mechanism to control and disperse people when an event has become a public nuisance;

WHEREAS, Municipal Law Enforcement and Hamilton Police Service have reported that they would benefit from additional enforcement options beyond those available under existing City By-law and Provincial Statutes;

WHEREAS, a Nuisance Party By-law would provide Municipal Law Enforcement and Hamilton Police Service additional tools to address the negative impacts on neighbourhoods of behaviors associated with large social gatherings;

THEREFORE BE IT RESOLVED:

That Licensing and By-law Services be requested to consult with Hamilton Police Service and other community stakeholders, to identify best practices from other Ontario municipalities, and report back in the second quarter of 2022 next steps for the development and implementation of a Nuisance Party By-law in the City of Hamilton.