



City of Hamilton

PUBLIC WORKS COMMITTEE ADDENDUM

Meeting #: 22-014
Date: September 26, 2022
Time: 1:30 p.m.
Location: Council Chambers
Hamilton City Hall
71 Main Street West

Carrie McIntosh, Legislative Coordinator (905) 546-2424 ext. 2729

Pages

6. DELEGATION REQUESTS

- *6.1. Daniel Artenosi, Overland LLP, and Steven Dejonckheere, Slate Asset Management, respecting Request for By-law Amendments Respecting 386 Wilcox Street (PW22083/LS22033) (Item 10.1) (for today's meeting)


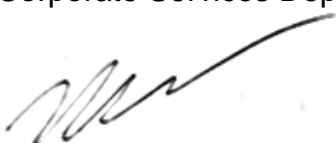
10. DISCUSSION ITEMS

- *10.1. Request for By-law Amendments Respecting 386 Wilcox Street (PW22083/LS22033) (City Wide)

2



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
 Hamilton Water Division
 and
CORPORATE SERVICES DEPARTMENT
 Legal and Risk Management Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	September 26, 2022
SUBJECT/REPORT NO:	Request for By-law Amendments Respecting 386 Wilcox Street (PW22083/LS22033) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Shane McCauley (905) 546-2424 Ext. 1020 Patrick MacDonald (905) 546-2424 Ext. 4708 Norm Schleeahn (905) 546-2424 Ext. 2669
SUBMITTED BY: SIGNATURE:	Nick Winters Director, Hamilton Water Division Public Works Department 
SUBMITTED BY: SIGNATURE:	Ron Sabo Acting City Solicitor, Legal Service Division Corporate Services Department 

RECOMMENDATION

That Slate HWF L.P.'s request for an exemption to the City of Hamilton's (City) Sewers and Drains By-law No.06-026 and the City's Waterworks By-law R84-026 be refused.

EXECUTIVE SUMMARY

At the September 6, 2022 Planning Committee meeting staff were directed to report back to the Public Works Committee on Slate HWF L.P.'s ("Slate") request to make an exemption to the City's Sewers and Drains By-law No.06-026 and the City's Waterworks

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: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 2 of 9**

By-law R84-026 for 386 Wilcox Street, Hamilton. Amendments to these by-laws would be required in order to advance the redevelopment and transformation of the Stelco lands.

Stelco, the prior owner of the property, had previously proposed multiple consents to sever the same lands that would have created seven (7) new lots on 386 Wilcox Street. The new approach, as proposed by Slate and as conditionally approved by the Committee of Adjustment, significantly reduces that number, but still results in more properties sharing sewer and water servicing connections than is allowed by the by-laws.

From an infrastructure management perspective, staff are not in a position to support making the requested by-law amendments, as they would be contrary to recommendations that Hamilton Water intends to bring to Council for approval in mid to late 2023, that individual properties be required to have their own dedicated water and wastewater servicing (no shared service connections). There is also the potential that the amendments could risk setting an undesirable precedent for development activity throughout the City, although staff do note and acknowledge that the subject lands are unique in the City given their scale and historical use.

From a development perspective, Planning and Economic Development staff note the unique and complicated nature of the subject lands and the clear challenges that any redevelopment will have in meeting the by-law requirements, and have expressed concern that not moving ahead with the requested by-law amendments would negatively impact the City's ability to achieve targets set out in the City's 2021-2025 Economic Development Action Plan by delaying or complicating the potential redevelopment of 386 Wilcox Street. Redevelopment of 386 Wilcox Street is projected to create better land use efficiencies, improve access, and bring highly sought-after industrial land supply to the market. An economic study conducted by Ernst & Young Global Limited estimates that the redevelopment of the subject property has the potential to create up to 23,000 new jobs across the Greater Toronto & Hamilton Area and inject up to \$3.8 billion into Ontario's economy.

Staff have recommended in this report that the request for by-law amendments be refused. However, within the Alternatives for Consideration section of the report, staff have provided a fulsome alternative for Council's consideration that would direct staff to make the necessary by-law amendments working with Legal Services staff to mitigate the infrastructure management and precedent concerns in the best way possible.

ALTERNATIVES FOR CONSIDERATION

As an alternative, Council can direct staff to make the necessary by-law amendments, which is described in greater detail on Page 8.

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 3 of 9**

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

On November 25, 2021, the Committee of Adjustment heard and conditionally approved two (2) consent applications by MHBC Planning on behalf of the owner, Stelco Inc. (“Stelco”), for 386 Wilcox Street. The purpose of these applications (HM/B-21:97, HM/B-21:98) was to permit the severance of one (1) parcel of land and to retain one (1) parcel of land (refer to Appendix “A” to Report PW22083/LS22033); and to allow for a long-term lease of the Severed Lands in excess of 21 years. A copy of the decisions and respective conditions of approval for the consent applications are attached as Appendix “B” to ReportPW22083/LS22033.

As per Stelco’s Application for Consent/Land Severance (HM/B-21:98), the purpose of the severance is to create a new lot for conveyance purposes, including transfers and mortgages. The Severed Lands would be conveyed to new ownership and a long-term lease would be entered into with Stelco for the Severed Lands to allow for the continued operation of Stelco’s cold steel rolling plant. According to Slate (who purchased the lands on June 1, 2022), the conveyance and long-term lease of the Severed Lands is to facilitate appropriate financial and risk management measures required by the nature of Stelco’s steel manufacturing operations.

In accordance with the *Planning Act*, there is a two-year time period granted to fulfill conditions or the application for consent shall be deemed to be refused. The expiry date for the severance application is December 2, 2023. Despite the additional time available to satisfy the conditions, Slate has advised the City that a condition of its financing arrangement to develop the property requires that the conditions for consent be satisfied by the end of October 2022.

The conditions for consent application HM/B-21:97 for a long-term lease were satisfied on March 15, 2022. Slate is currently working with the City to satisfy the remaining conditions of consent application HM/B-21:98. Condition 2 of consent application HM/B-21:98, which required a Holding Provision be placed on the retained portion of the lands, was satisfied by the passage of By-law 22-069 by Council on April 13, 2022. The main purpose for the Holding Provision is to make sure that redevelopment of the site does not occur until a Master Servicing Study and a Concept Plan showing land uses and phasing are submitted to the satisfaction of the City. The Master Servicing Study

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 4 of 9**

also has to conform to the current sewer and water by-laws. Condition 10 of consent application HM/B-21:98 requires that the Owner enter into and register on title a Development Agreement and/or a Joint Use Agreement, if necessary.

A Joint Use Agreement that meets the requirements of the City's Sewers and Drains, and Waterworks By-laws is already in place for the three (3) existing parcels of land; Max Aicher North America (MANA) (North) (1155 Industrial Drive), MANA (South) (855 Industrial Drive) and Slate (386 Wilcox Street). However, the completion of the severance would result in four separate parcels of land, all of which would have interconnected water and sewer services which is not permitted under the Sewers and Drains, and Waterworks By-laws.

Stelco, the prior owner of the property, previously received conditional approval from the Committee of Adjustment on October 10, 2019 for multiple consents to sever that would have created seven (7) new lots on 386 Wilcox Street. Stelco subsequently made a request to Council for a site-specific amendment to the City's Sewers and Drains, and Waterworks By-laws. At its meeting on December 16, 2020, Council approved the recommendations contained in report PED20220/PW20067/LS20037 Stelco Inc. Severances – 386 Wilcox Street, Hamilton which had included the following direction with respect to that previous proposal and the previous consent approach:

- (a) That staff be directed to advise Stelco that it will not satisfy all Conditions of the Committee of Adjustment decisions dated October 10, 2019, including Conditions 6 and 7, until and unless:
 - (i) Stelco submits a comprehensive infrastructure strategy plan ("Master Servicing Plan") with sufficient details to meet the private and municipal servicing requirements of the City of Hamilton to the satisfaction of the General Manager of the Public Works Department and the General Manager of the Planning and Economic Development Department; and
 - (ii) Stelco executes a Development Agreement substantially in the form already proposed by City staff that is approved by the the General Manager of the Public Works Department, the General Manager of the Planning and Economic Development Department and the City Solicitor;
- (b) That staff be directed to advise Stelco that should it not satisfy all Conditions of the Committee of Adjustment decisions dated October 10, 2019 by January 22, 2021, that any subsequent applications to develop Stelco's lands located at 386 Wilcox Street, Hamilton proceed by way of applications for a plan of subdivision or a plan of condominium;

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 5 of 9**

- (c) That staff be directed to advise Stelco that any applications to develop Stelco's lands located at 386 Wilcox Street, Hamilton proceed such that amendments to the City's Sewers and Drains By-law No.06-026 and the City's Waterworks By-law R84-026 are not necessary

As described above, following discussions with Planning staff, a new approach has been undertaken and a new Committee of Adjustment approval was sought and received, and significant work has been undertaken by the applicant to meet the Committee of Adjustment conditions and advance a transformational redevelopment of the lands. The updated plans have significantly reduced the need for amendments to the City's Sewers and Drains By-law, however exemptions would still be needed for the redevelopment to advance, which is the subject of this report.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City's Sewers and Drains By-law No.06-026 and the City's Waterworks By-law R84-026 currently permit shared service connections for up to three (3) industrial, commercial, institutional (ICI) or condominium corporation properties respectively.

Hamilton Water staff intend to bring updated Sewers and Drains, and Waterworks By-laws to Council in mid to late 2023, that include amendments that will require that individual properties have their own dedicated water and wastewater servicing (no shared service connections). These amendments are based on municipal best practices and staff's experience dealing with shared service connections.

RELEVANT CONSULTATION

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

- Public Works Department – Hamilton Water Division
- Planning and Economic Development Department – Growth Management
- Planning and Economic Development Department – Economic Development
- Planning and Economic Development Department – Planning
- Corporate Services Department – Legal and Risk Management Services

ANALYSIS AND RATIONALE FOR RECOMMENDATION

On September 6, 2022, through delegation, Slate made a request to Planning Committee to enact amendments to the Sewers and Drains, and Waterworks By-laws to allow for up to four (4) parcels of land to share a single service connection, with an approved Joint Use Agreement in place.

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 6 of 9**

In discussions with Slate, their stated intent is that the by-law amendments would be site specific and temporary, while they develop a Concept Plan and a Master Servicing Strategy that will be to the satisfaction of the City (as required by the Holding Provision). Slate has further offered to place a restriction on further transfers of the retained and severed lands under the *Land Titles Act* (excepting the initial transfer to complete the severance), to be secured through separate agreements with the City required as a condition of consent approval.

Despite the significant reduction in the number of new properties proposed to be created through the current application compared to Stelco's prior application in 2019, the requested severance would still result in more properties sharing sewer and water servicing connections than is allowed by the by-laws.

While the current versions of By-laws R84-026 and 06-026 permit shared connections for up to three (3) properties where prior approval is provided by the City and they enter into and register on title a Joint Use Agreement, Hamilton Water staff intend to bring updated Sewers and Drains, and Waterworks By-laws to Council in mid to late 2023, that include amendments that will require that individual properties have their own dedicated water and wastewater servicing (no shared service connections).

A Joint Use Agreement that meets the requirements of the City's Sewers and Drains, and Waterworks By-laws is already in place for the existing three (3) parcels of land; MANA (North) (1155 Industrial Drive), MANA (South) (855 Industrial Drive) and Slate (386 Wilcox Street). If the requested by-law amendments were approved, an updated Joint Use Agreement would also need to be created.

Joint servicing arrangements on private lands have inherent difficulties. They depend on an intricate pattern of cross easements and joint maintenance obligations and operate in a context when most of the private participants wish to avoid capital expenditures. These agreements must be carefully constructed so that they operate as an exception to the general prohibition at common law for positive covenants running with lands.

Ultimately, there will be as many parties to the private arrangements as there are eventual lot owners, and in the event that the private arrangements break down and there are disputes, they are settled in court. Even when they are settled in court and a judgment has been rendered, decisions are not self-enforcing, and there are considerable difficulties in collecting monies even when a judgment is in place, especially when there are many creditors and particularly when the other creditors are secured. While the City is a party to its standard Joint Use Agreement, it is generally left to the private parties to resolve disputes between them as described above. However, in practice, the City often finds itself drawn into these types of disputes between owners.

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 7 of 9**

Hamilton Water's concerns related to amending the by-laws are rooted in the protection and management of the City's water and wastewater infrastructure. More specifically the concerns include:

- The precedent it could set for other development projects to request further site-specific amendments to City by-laws eroding the intent and integrity of the by-laws which in this instance are meant to govern the water and wastewater systems ensuring adequate servicing, public health and safety, and supporting appropriate management of City assets;
- Due to the complex interconnectivity of the water and sewer systems across the proposed four (4) parcels, staff's view is that there is no guarantee that the future Concept Plan and Site Servicing Strategy will meet the requirements of the existing or amended by-laws;
- The Holding Provision only applies to the retained portion of 386 Wilcox Street and the voluntary restriction on further transfers of lands under the *Land Titles Act* that Slate has proposed would only apply to the retained and severed lands. In all cases the MANA lands are excluded from these protections;

Slate is required to provide a Concept Plan and a Master Servicing Strategy, as required by the Holding Provision. Due to the vast existing infrastructure and complex interconnectivity of the water and sewer systems across the proposed four (4) parcels; and no known agreements with MANA for the future separation of services, staff's view is that there is no guarantee that the future Concept Plan and Master Servicing Strategy will meet the requirements of the existing or amended by-laws.

It should also be noted that in their application for Consent of Severance HM/B-21:98 the Owner states:

Under the proposed consent - "Given the complex network of services which traverse the Subject Lands, blanket reciprocal easements will be established for the Severed Lands and the Retained Lands for the purposes of maintaining all existing access and servicing".

Under the requirements of the Urban Hamilton Official Plan F.1.14.3.5 (c) - "the lots are fully serviced by municipal water and wastewater systems;" and, "The Subject Lands are fully serviced. No changes are being proposed to the existing services. Blanket reciprocal easements are proposed for the Severed Lands and the Retained Lands to maintain all of the existing access and servicing. Any changes to services would be addressed through future master planning, Draft Plan of Subdivision and Site Plan applications."

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 8 of 9**

From a development perspective, the redevelopment of the Stelco lands is a significantly complex undertaking. Planning and Economic Development staff note that the unique and complicated nature of the subject lands will present challenges for any redevelopment to meet the by-law requirements and have expressed concern that not moving ahead with the requested by-law amendments would negatively impact the City's ability to achieve targets set out in the City's 2021-2025 Economic Development Action Plan by delaying or complicating the potential redevelopment of 386 Wilcox Street. These impacted targets include tripling the municipal assessment on the property, along with increasing Hamilton's shovel-ready land supply by 500 acres. An economic study conducted by Ernst & Young Global Limited estimates that the redevelopment of the subject property has the potential to create up to 23,000 new jobs across the Greater Toronto & Hamilton Area and inject up to \$3.8 billion into Ontario's economy. Despite the perception of vacancy in the area, approximately 97% of the overall Bayfront Industrial Area is deemed occupied. Redevelopment of 386 Wilcox Street is projected to create better land use efficiencies, improve access, and bring highly sought-after industrial land supply to the market.

Staff have recommended in this report that the request for by-law amendments be refused. However, within the Alternatives for Consideration section of the report, staff have provided a fulsome alternative for Council's consideration that would direct staff to make the necessary by-law amendments working with Legal Services staff to mitigate the infrastructure management and precedent concerns in the best way possible.

ALTERNATIVES FOR CONSIDERATION

Council could support Slate's request for amendments to the City's Sewers and Drains By-law No.06-026 and the City's Waterworks By-law R84-026, and direct staff to amend the by-laws and to enter into a modified version of the City's standard Joint Use Agreement that addresses the unique considerations of such an agreement for this property.

If the request for by-law amendments is granted by Council, staff recommends that such amendments be on a site-specific and temporary basis for existing services only, in effect only until such time as the required Concept Plan and Master Servicing Strategy are implemented as required by the Holding Provision. The Holding Provision in place on the property through By-law 22-069 is not applicable to the proposed severed lot on 386 Wilcox Street as well as the lands located at 855 and 1155 (MANA South and MANA North) Industrial Drive that are party to the current Joint Use Agreement with the site and would be required to be party to a modified Joint Use Agreement.

An updated Joint Use Agreement pursuant to this alternative for consideration would have to be entered into between the City, Slate, and MANA. While Slate and MANA (and Stelco as long-term tenant of part of Slate's lands) are all sophisticated parties that

**SUBJECT: Request for By-law Amendments Respecting 386 Wilcox Street
(PW22083/LS22033) (City Wide) Page 9 of 9**

should not require the City's assistance to resolve any disputes between them under a modified Joint Use Agreement, there is still a risk that the City may be forced to devote time and resources to such future disputes if they have an impact on City services and connections thereto, or come up in the consideration of future development applications.

Should Council adopt the Alternative for Consideration, Legal Services would assist Public Works staff with drafting the relevant amendments to By-laws R84-026 and 06-026 and drafting and registering on title the required modified Joint Use Agreement to ensure the impact of the shared connection is limited and temporary. The By-law amendments would be prepared for approval at the September 28, 2022 City Council meeting.

In summary, the alternative for Council's consideration would be to direct staff as follows:

That staff be directed to amend the City's Sewers and Drains By-law No.06-026 and the City's Waterworks By-law R84-026 on a site-specific basis for existing services for the lands at 386 Wilcox Street and on a temporary basis until such time as the required Concept Plan and Master Servicing Strategy are implemented as required by the Holding Provision.

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.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

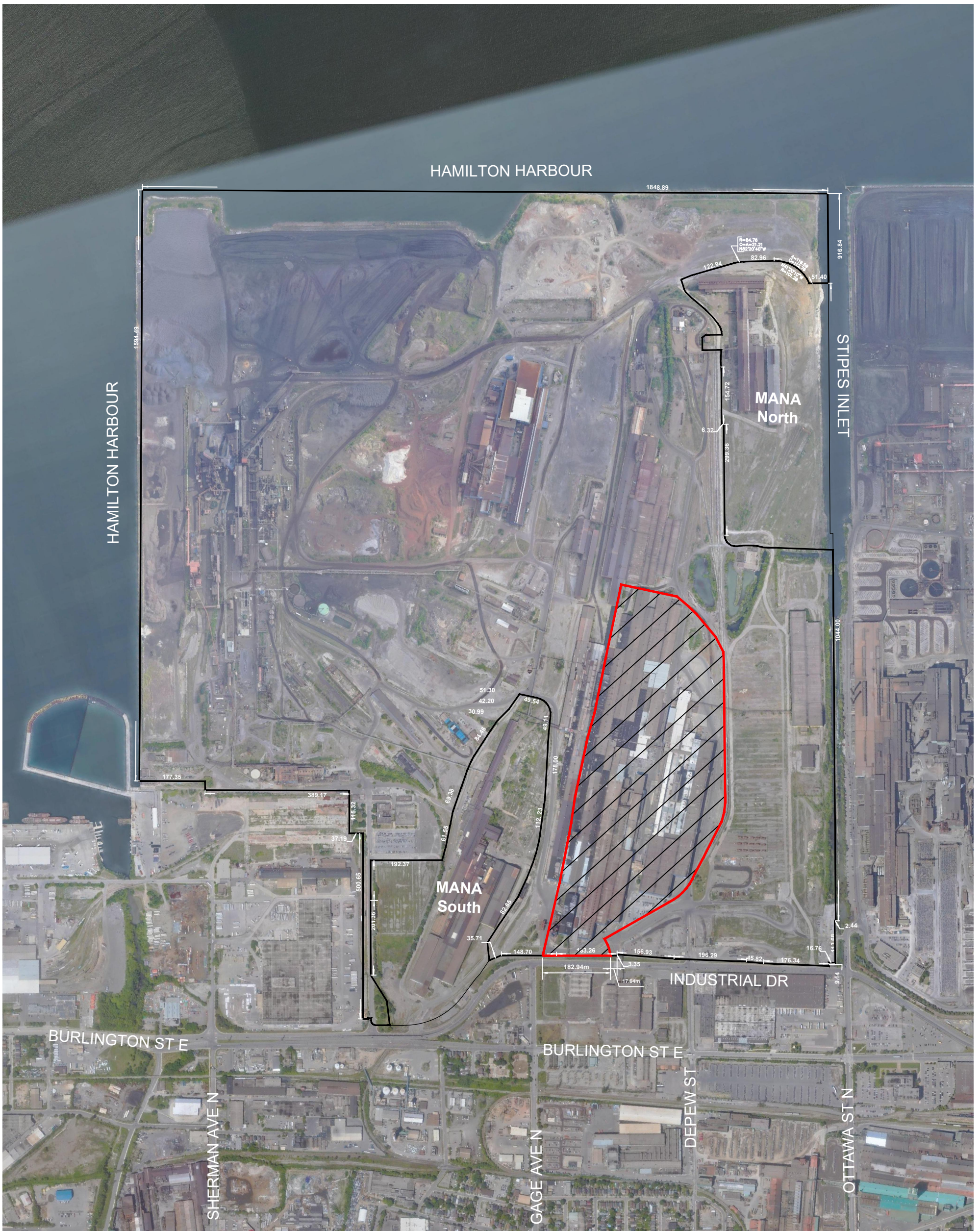
Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PW22083/LS22033 – Severance Sketch of 386 Wilcox Street

Appendix "B" to Report PW22083/LS22033 – Decisions of the Committee of Adjustment dated November 25, 2021



CONSENT SKETCH

LEGEND

- Lands to be Severed*
Area: 31.78 ha
Frontage: 182.94 m
Depth: 1007.08 m
- Lands to be Subject to Long Term Lease

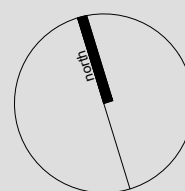
- Lands to be Retained*
Area: 287.12 ha
Frontage: 840.18 m
Depth: 2233.21 m
Outdoor Storage: 75.03 ha
% of Lands for Outdoor Storage: 26.2%

Notes:

- * Severed and retained lands subject to reciprocal blanket easements for purposes of access and servicing.

DATE: October 20, 2021

SCALE: 1:10,000



N:\17370\B - Stelco Property\MHBC Documents\Mapping, Drawings, Info\Severance Sketch (2021-10-14).dwg

**386 Wilcox St
Hamilton, Ontario**

MHBC PLANNING
URBAN DESIGN
& LANDSCAPE
ARCHITECTURE
204-442 BRANT STREET BURLINGTON, ON, L7R 2G4
P: 905 639 8686 F: 905 761 5589 | WWW.MHBCPLAN.COM

IMPORTANT INFORMATION FOR MINOR VARIANCES

THE LAST DATE OF APPEAL IS:

November 15, 2021

THIS DECISION IS NOT FINAL AND BINDING AND MUST NOT BE ACTED UPON UNTIL THE PERIOD OF APPEAL HAS EXPIRED

THE DECISION DOES NOT RELEASE ANY PERSONS FROM THE NECESSITY OF OBSERVING THE REQUIREMENTS OF BUILDING REGULATIONS, THE LICENSE BY-LAW, OR ANY OTHER BY-LAW OF THE CITY OF HAMILTON.

Appeal to Tribunal

45(12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee charged by the Tribunal as payable on an appeal from a committee of adjustment to the Tribunal. 2017, c. 23, Sched. 5, s. 98 (3); 2021, c. 4, Sched. 6, s. 80 (5).

Where no appeal

45(14) If within such 20 days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. *Planning Act, R.S.O. 1990*

APPEALS MAY BE FILED:

1. BY MAIL/COURIER ONLY

- 1.1 Appeal package delivered to City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5.
 - MUST BE RECEIVED BY THE END OF BUSINESS ON THE LAST DAY OF APPEAL AS NOTED ABOVE
- 1.2 Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.
- 1.3 Appeal package must include all of the following:
 - Notice of appeal, setting out the objection to the decision and the reasons in support of the objection;
 - Ontario Land Tribunal (OLT) appeal form, this can be found by contacting Committee of Adjustment staff at cofa@hamilton.ca or at the OLT website <https://olt.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/>;
 - Filing fee, the fee is currently \$400 (subject to change) and must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance;
 - All other information as required by the Appeal Form.

2. BY EMAIL AND MAIL/COURIER

- 2.1 Electronic appeal package must be delivered by email to cofa@hamilton.ca.
 - MUST BE RECEIVED BY THE END OF BUSINESS ON THE LAST DAY OF APPEAL AS NOTED ABOVE
- 2.2 Physical appeal package must be delivered by mail to City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5.
- 2.3 Electronic appeal package must contain:
 - a copy of the notice of appeal;
 - a copy of the OLT appeal form;
 - a copy of the certified cheque or money order.
- 2.4 Physical appeal package must contain all information as noted in Section 1.3

Questions or Information:
Contact Committee of Adjustment Staff (cofa@hamilton.ca)

IMPORTANT INFORMATION FOR CONSENTS

THE LAST DATE OF APPEAL IS:

December 22, 2021

THIS DECISION IS NOT FINAL AND BINDING AND MUST NOT BE ACTED UPON UNTIL THE PERIOD OF APPEAL HAS EXPIRED.

THE DECISION DOES NOT RELEASE ANY PERSONS FROM THE NECESSITY OF OBSERVING THE REQUIREMENTS OF BUILDING REGULATIONS, THE LICENSE BY-LAW, OR ANY OTHER BY-LAW OF THE CITY OF HAMILTON.

Appeal

53(19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee charged by the Tribunal. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (6); 2017, c. 23, Sched. 5, ss. 80, 81; 2021, c. 4, Sched. 6, s. 80 (1).

No appeal

53(21) If no appeal is filed under subsection (19) or (27), subject to subsection (23), the decision of the council or the Minister, as the case may be, to give or refuse to give a provisional consent is final. *Planning Act, R.S.O. 1990*

Where delegation

53(44) If a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents, any reference in this section to the clerk of the municipality shall be deemed to be a reference to the secretary-treasurer of the land division committee or committee of adjustment. *Planning Act, R.S.O. 1990*

APPEALS MAY BE FILED:

1. BY MAIL/COURIER ONLY

- 1.1 Appeal package delivered to City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5.
- MUST BE RECEIVED BY THE END OF BUSINESS ON THE LAST DAY OF APPEAL AS NOTED ABOVE
- 1.2 Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.
- 1.3 Appeal package must include all of the following:
 - Notice of appeal, setting out the objection to the decision and the reasons in support of the objection;
 - Ontario Land Tribunal (OLT) appeal form, this can be found by contacting Committee of Adjustment staff at cofa@hamilton.ca or at the OLT website <https://olt.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/>;
 - Filing fee, the fee is currently \$400 (subject to change) and must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance;
 - All other information as required by the Appeal Form.

2. BY EMAIL AND MAIL/COURIER

- 2.1 Electronic appeal package must be delivered by email to cofa@hamilton.ca.
- MUST BE RECEIVED BY THE END OF BUSINESS ON THE LAST DAY OF APPEAL AS NOTED ABOVE
- 2.2 Physical appeal package must be delivered by mail to City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5.
- 2.3 Electronic appeal package must contain:
 - a copy of the notice of appeal;
 - a copy of the OLT appeal form;
 - a copy of the certified cheque or money order.
- 2.4 Physical appeal package must contain all information as noted in Section 1.3



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. HM/B-21:98
SUBMISSION NO. B-98/21

APPLICATION NUMBER: HM/B-21:98

SUBJECT PROPERTY: 386 Wilcox St., Hamilton

APPLICANT(S): Owner Stelco Inc. c/o Paul Simon
Applicant MHBC Planning c/o Dana Anderson

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land for a manufacturing industrial use and to retain a parcel of land for industrial and employment uses.

Severed lands:
189.94m[±] x 1,007.08m[±] and an area of 31.78 per ha[±]

Retained lands:
840.18m[±] x 2,233.21m[±] and an area of 287.12 per ha[±]

This application will be heard in conjunction with Application No. HM/B-21:97.

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 Urban 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)

HM/B-21:98
Page 2

2. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:
 - a. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule "A" – Zoning Maps and municipally known as 386 Wilcox Street, development shall be restricted in accordance with the following:
 - i. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the M5, 433 Zone. Additions and alterations to existing buildings may be increased by a maximum of 5%.
 - ii. Conditions for Holding Provision Removal
The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following conditions have been satisfied:
 1. The owner submitting and implement a Concept Plan for the retained lands to the satisfaction of the Director of Planning. The Concept Plan shall include guidance on:
 - a. Precincts and the distribution of land uses and buildings within each precinct;
 - b. Road and rail network; and
 - c. Phasing.
 2. The owner submitting, receiving approval and implementation of a Site Servicing Strategy for the retained lands to the satisfaction of the Senior Director of Growth Management.
 3. The owner submitting, receiving approval and implementation of an Implementation Strategy to illustrate how the Concept Plan and Site Servicing Strategy may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Senior Director of Growth Management.
3. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).
4. The applicant shall provide confirmation of the existing uses on the lands to be retained in order to determine compliance with the permitted uses of the "M5, E433" Zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
5. The 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.

HM/B-21:98
Page 3

6. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping 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).
7. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
9. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
10. That the owner enters into and register on title a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.
11. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Notes:

1. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained will remain as **386 Wilcox Street, Hamilton**, and the lands to be conveyed will be assigned the address of **1055 Industrial Drive, Hamilton**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City’s Sign By-law, in a manner that is clearly visible from the road.

2. “Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

DATED AT HAMILTON this 25th day of November, 2021.

D. Smith (Chairman)

D. Serwatak

M. Dudzic

M. Switzer

B. Charters

HM/B-21:98
Page 4

N. Mieczko

M. Smith

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 2, 2021.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE
OF THIS NOTICE OF DECISION (December 2, 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 ONTARIO LAND
TRIBUNAL (OLT) MAY BE FILED IS December 22 , 2021

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.



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 CONSENT LAND SEVERANCE

APPLICATION NO. HM/B-21:97
SUBMISSION NO. B-97/21

APPLICATION NUMBER: HM/B-21:97

SUBJECT PROPERTY: 386 Wilcox St., Hamilton

APPLICANT(S): Owner Stelco Inc. c/o Paul Simon
Applicant MHBC Planning c/o Dana Anderson

PURPOSE OF APPLICATION: To create a new parcel for long-term lease purposes in excess of 21 years. The severed lands will be used for steel manufacturing operations.

Severed lands:
182.94m[±] x 1,007.08m[±] and an area of 31.78 per ha[±]

Retained lands:
840.18m[±] x 2,233.21m[±] and an area of 287.12 per ha[±]

This application will be heard in conjunction with Application No. HM/B-21:98.

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 Urban 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)

HM/B-21:97
Page 2

2. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
3. That the owner register on the title of the lands an adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of, and if required by, the Manager of Engineering Approvals.
4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
5. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

DATED AT HAMILTON this 25th day of November, 2021.

D. Smith (Chairman)

M. Dudzic

B. Charters

M. Switzer

D. Serwatak

N. Mieczko

M. Smith

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 2, 2021.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 2, 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 ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **December 22 , 2021**

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”