



**City of Hamilton
PLANNING COMMITTEE
AGENDA**

Meeting #: 23-006
Date: April 18, 2023
Time: 9:30 a.m.
Location: Council Chambers (Planning)
Hamilton City Hall
71 Main Street West

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	
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4.1 April 4, 2023	3
5. COMMUNICATIONS	
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7. DELEGATIONS	
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11.2	Demolition Permit - 295 Hamilton Drive, Ancaster (PED23085) (Ward 12)	33
11.3	Demolition Permit - 196 Stanley Avenue (PED23086) (Ward 1)	39
12.	MOTIONS	
13.	NOTICES OF MOTION	
14.	GENERAL INFORMATION / OTHER BUSINESS	
15.	PRIVATE AND CONFIDENTIAL	
15.1	Closed Session Minutes - April 4, 2023 Pursuant to Section 9.3, Sub-sections (e), (f) and (k) of the City's Procedural By-law 21-021, as amended; and, Section 239(2), Sub-sections (e), (f) and (k) of the <i>Ontario Municipal Act</i> , 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.	
16.	ADJOURNMENT	



PLANNING COMMITTEE

MINUTES

23-005

April 4, 2023

9:30 a.m.

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

Present: Councillor J.P. Danko (Chair)
Councillor T. Hwang (1st Vice Chair)
Councillor C. Cassar (2nd Vice Chair)
Councillors J. Beattie, E. Pauls, M. Francis,
C. Kroetsch, T. McMeekin, N. Nann, M. Tadeson, A. Wilson,
M. Wilson

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. **Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications (PED23054) (City Wide) (Item 9.1)**

(Hwang/M. Wilson)

That Report PED23054 respecting Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications, be received.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
YES – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson
YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

2. **Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-022 and Zoning By-law Amendment Application ZAC-22-048 to the Ontario Land Tribunal (OLT) for Lack of Decision for Lands Located at 2900 King Street East, Hamilton (PED23073) (Ward 5) (Item 9.2)**

(Francis/Hwang)

That Report PED23073 respecting Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-022 and Zoning By-law Amendment Application ZAC-22-048 to the Ontario Land Tribunal (OLT) for Lack of Decision for Lands Located at 2900 King Street East, Hamilton, be received.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

- YES – Ward 1 Councillor M. Wilson
- YES – Ward 2 Councillor C. Kroetsch
- YES – Ward 3 Councillor N. Nann
- YES – Ward 4 Councillor T. Hwang
- YES – Ward 5 Councillor M. Francis
- YES – Ward 7 Councillor E. Pauls
- YES – Ward 8 Councillor J.P. Danko
- YES – Ward 10 Councillor J. Beattie
- YES – Ward 11 Councillor M. Tadeson
- YES – Ward 12 Councillor C. Cassar
- YES – Ward 13 Councillor A. Wilson
- YES – Ward 15 Councillor T. McMeekin

3. Hamilton Municipal Heritage Committee Report 23-003 (Item 11.1)

(Kroetsch/McMeekin)

(a) Heritage Permit Application HP2023-005, Under Part V of the Ontario Heritage Act, for the Erection of a Rear Detached Accessory Structure at 18 Chilton Place, Hamilton (PED23001) (Ward 2) (Item 8.1)

- (i) That Heritage Permit Application HP2023-005, for the erection of a rear detached accessory structure on the designated property at 18 Chilton Place, Hamilton (Durand-Markland Heritage Conservation District), as shown in Appendix “A” attached to Report PED23001, be approved, subject to the approval of any required Planning Act applications and the following Heritage Permit conditions:
 - (a) That the final details of the windows and garage doors be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation;
 - (b) That any minor changes to the plans and elevations following approval shall be submitted to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit;

- (c) That construction and site alterations, in accordance with this approval, shall be completed no later than March 31, 2025. If the construction and site alterations are not completed by March 31, 2025, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

- (b) Recommendation to Designate 115-117 George Street, Hamilton, under Part IV of the Ontario Heritage Act (PED23027) (Ward 2) (Item 8.2)**
 - (i) That the City Clerk be directed to give notice of Council's intention to designate 115-117 George Street, Hamilton, shown in Appendix "A" attached to PED23027, as a property of cultural heritage value pursuant to the provisions of Part IV, Section 29 of the Ontario Heritage Act, in accordance with the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix "A" to Hamilton Municipal Heritage Committee Report 23-002, subject to the following:
 - (a) If no objections are received to the notice of intention to designate in accordance with the Ontario Heritage Act, City Council directs staff to introduce the necessary by-law to designate the property to be of cultural heritage value or interest to City Council;
 - (b) If an objection to the notice of intention to designate is received in accordance with the Ontario Heritage Act, City Council directs staff to report back to Council through Planning Committee to allow Council to consider the objection and decide whether or not to withdraw the notice of intention to designate the property.
 - (ii) That staff be directed to investigate the addition of a designated heritage plaque to be added by the developer, to the property at 115-117 George Street, Hamilton.

- (c) Council Initiative to Repeal Designation By-laws under Section 31 the Ontario Heritage Act for Vacant Properties at 14 Belvidere Avenue and 14 Mary Street, Hamilton (PED23038) (Wards 2 and 8) (Item 10.1)**

- (i) That the City Clerk be directed to give notice of Council's intention to repeal By-law No. 83-183, being a by-law designating 14 Belvidere Avenue, Hamilton (Appendix "A" attached hereto to Report PED23038), and By-law No. 01-225, being a by-law designating 14 Mary Street, Hamilton (Appendix "B" attached hereto to Report PED23038), in accordance with the requirements of Section 31(3) of the Ontario Heritage Act, subject to the following:
 - (a) For each property that receives no objections to the notice of intention to repeal in accordance with the Ontario Heritage Act, staff be directed to introduce the necessary by-law to repeal to City Council;
 - (b) For each property that receives any objection to the notice of intention to repeal in accordance with the Ontario Heritage Act, staff be directed to report back to Council through Planning Committee to allow Council to consider the objection and decide whether or not to withdraw the notice of intention to repeal.

(d) Notice of Intention to Demolish the Building Located at 99 Creighton Road, Dundas, being a Non-Designated Property Listed on the Municipal Heritage Register (PED23068) (Ward 13) (Item 10.2)

That the non-designated property located at 99 Creighton Road, Dundas, be removed from the Municipal Heritage Register.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

**4. Outdoor Commercial Patios – Minor Variances and Temporary Use By-laws
(Item 12.1)****(Francis/McMeekin)**

WHEREAS, Outdoor Commercial Patios are regulated in size and location by Zoning By-law No. 05-200;

WHEREAS, By-law No. 20-181, as amended by By-law Nos. 20-215 and 21-143 amended the Outdoor Commercial Patio regulations in the Zoning By-law to provide temporary relief from the locational requirements for Outdoor Commercial Patios;

WHEREAS, Report PED20135(c) recommended reinstatement of the temporary locational permissions for Outdoor Commercial Patios to support local businesses by increasing operational flexibility;

WHEREAS, Council approved By-law No. 22-073 to reinstate the temporary locational permissions for Outdoor Commercial Patios on properties abutting a Residential Zone provided a minimum setback of 5 metres from a Residential Zone is provided and the patio does not obstruct a driveway, parking aisle or fire route, and the Zoning By-law restricts Outdoor Commercial Patios to the front yard of a property if the rear lot line abuts a Residential Zone, Downtown Residential (D5) Zone, or Downtown Multiple Residential (D6) Zone, or is separated by a laneway from said zones;

WHEREAS, Report PED20135(c) directed staff to report back to Council before April 2025, prior to the expiration of the Temporary Use By-law, to present staff's evaluation of the merits of establishing the temporary locational permissions for Outdoor Commercial Patios as permanent given that commercial entertainment and recreation on Outdoor Commercial Patios is now permitted in the Zoning By-laws and regulated by the Noise Control-By-law;

WHEREAS, a Minor Variance Application is required to assess variations from the requirements of the Zoning By-law;

WHEREAS, a Minor Variance Application fee is \$3,735.00.

WHEREAS, a Routine Minor Variance fee of \$675.00 is applied to pools, decks, sheds, accessory buildings, porches, eave projections, recognizing legal non-complying situations and secondary dwelling units;

WHEREAS, in 2022, four Minor Variance Applications were received to modify the zoning regulations associated with Outdoor Commercial Patio locations;

WHEREAS, a variance to the locational permissions and setback requirements for Outdoor Commercial Patios shall require varying the location requirements in the Zoning By-law and the temporary location permissions and setback requirements of the Temporary Use By-law;

THEREFORE, BE IT RESOLVED:

That staff be directed to amend the interpretation note for Routine Minor Variance applications in the Tariff of Fees By-law to include variances to the zoning by-law regulations for Outdoor Commercial Patios and the temporary use provisions where a Temporary Use By-law applies to the property for Outdoor Commercial Patios as a Routine Minor Variance.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

5. Demolition Permit for 1262 Centre Road, Flamborough (Added Item 12.2)

(McMeekin/Beattie)

WHEREAS, the owner of the above-mentioned property would like to demolish the existing dwelling without having to obtain a Building Permit for a replacement building.

WHEREAS, in order to preserve the land, in a safe and secure manner, the family has removed (with building permit) the dilapidated garage. The remaining house is beyond repair and dangerous for people to enter, yet people continue to break in; and

WHEREAS, for the past 25 years, the majority of the 32 acres has been rented and farmed by a local farming family, Robinson Farms. This parcel would also be incorporated into farmland.

THEREFORE, BE IT RESOLVED:

That the Chief Building Official be authorized to issue a demolition permit for 1262 Centre Road, Flamborough, pursuant to Section 33 of the Planning Act as amended, without having to comply with the conditions in Sub-Section 6.(a) of Demolition Control Area By-law 22-101.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 NOT PRESENT – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

6. Extension for Reconstruction at 3334 Homestead Drive, Glanbrook (Added Item 12.3)

(Tadeson/Pauls)

WHEREAS, a permit to demolish the existing residential building containing a single family dwelling (the “original building”) at 3334 Homestead Drive, Glanbrook was issued to the owner, Joel Tavormina, on August 5, 2018.

WHEREAS, a condition of the demolition permit required the owner to construct and substantially complete the new residential building containing a single family dwelling (the “replacement building”) that was proposed to be erected on the property not later than two (2) years from date of the demolition of the original building.

WHEREAS, on September 4, 2018 the original building was demolished and the condition of the demolition permit required that the replacement single family dwelling be constructed and substantially complete not later than September 4, 2020.

WHEREAS, on May 1, 2019 the partially constructed replacement building caught on fire during construction and was substantially damaged, which did not alter the condition that the replacement building be constructed and substantially complete by September 4, 2020.

WHEREAS, on May 31, 2019 a permit to demolish the fire damaged partially constructed replacement building and a replacement reconstruction permit were issued to permit the construction of another replacement building.

WHEREAS the owner has not commenced construction of the second replacement building.

WHEREAS, pursuant to subsection 33(7) of the *Planning Act*, upon failure to complete the replacement building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of \$20,000, as specified in the permit.

WHEREAS, pursuant to subsections 33(11) and (12) of the *Planning Act*, the demolition permit holder may submit a notice of application to the clerk requesting relief by Council from the conditions on which the permit was issued where the holder of the permit is of the opinion it is not possible to complete the replacement building within the time specified in the permit or that the construction of the replacement building has become not feasible on economic or other grounds, and this notice must be filed not less than sixty (60) days before the time specified in the permit for the construction of the replacement building.

WHEREAS, the statutory timeline to apply for relief from the conditions of the permit expired on July 6, 2020.

WHEREAS, subsection 33(13) of the *Planning Act*, authorizes Council to extend the sixty (60) day timeline for making of an application for relief from the conditions on which the permit was issued.

WHEREAS, subsection 33(14) of the *Planning Act* specifies where an application is made under subsection (11), the council shall consider the application and may grant the same or may extend the time for completion of the replacement building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the replacement building.

WHEREAS, the permit holder has requested that Council exercise its authority under subsection 33(13) of the *Planning Act* to extend the sixty (60) day period to submit notice and apply for relief as provided under subsection 33(11) and (12) of the *Planning Act*; and

WHEREAS, Council has considered the permit holder's applicant.

NOW THEREFORE BE IT RESOLVED:

That the permit holder be granted an extension to file a notice of application under section 33(13) of the *Planning Act* and is granted relief from the ***time for completion*** of a replacement building, on the property at 3334 Homestead Drive, Glanbrook, ***from two (2) years of the date of the demolition of the original building to two (2) years from the date of Council resolution.***

Result: Main Motion, As Amended, CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

7. **Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-19-012), Zoning By-law Amendment Application (ZAC-19-044) and Draft Plan of Subdivision Application (25T-201905) for lands located at the Northeast and Southeast corners of Highway No. 6 and 30 Dundas Street East, Flamborough (OLT-21-001345) (LS22004(a)/PED22019(a)) (Ward 15) (Added Item 15.2)**

(McMeekin/Hwang)

- (a) That the directions to staff in Closed Session respecting Report LS22004(a)/PED22019(a), be approved;
- (b) That closed session recommendations (a), (b), and (c) to Report LS22004(a) /PED22019(a) be released to the public, following approval by Council; and
- (c) That the balance of Report LS22004(a)/PED22019(a) remain confidential.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch

YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 NOT PRESENT – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

8. Appeal to the Ontario Land Tribunal (OLT) of By-law #22-258, Melville Street Heritage Conservation District Study Area (LS23017/PED23075) (Ward 13) (Added Item 15.3)

(A. Wilson/McMeekin)

- (a) That the directions to staff in closed session respect Report LS23017/PED23075, be approved;
- (b) That closed session recommendations (a), (b), and (c) contained in Report LS23017/PED23075 remain confidential until made public coincident with staff's presentation of the City's position to the OLT;
- (c) That Appendices "A" and "B" be approved and remain confidential until made public coincident with staff's presentation of the City's position to the OLT; and
- (d) That the balance of Report LS23017/PED23075 remain confidential.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 NOT PRESENT – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

9. Committee of Adjustment Decision regarding Minor Variance Application (AN/A-22:180) for Lands Located at 64 Lovers Lane, Ancaster (LS23015) (Ward 12) (Added Item 15.4)

(Cassar/Beattie)

- (a) That the directions to staff in closed session respect Report LS23015, be approved;
- (b) That closed session recommendations (a) and (b) to Report LS23015 be released to the public, following approval by Council; and
- (c) That the balance of Report LS23015 remain confidential.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 NOT PRESENT – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

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

5. COMMUNICATIONS

- 5.2 Greg Dunnett, Hamilton Chamber of Commerce respecting Outdoor Commercial Patios - Routine Minor Variances and Temporary Use By-laws (Item 12.1)

13. NOTICES OF MOTION

- 13.1 Demolition Permit for 1262 Centre Road, Flamborough

15. PRIVATE AND CONFIDENTIAL

- 15.2 Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-19-012), Zoning By-law Amendment Application (ZAC-19-044) and Draft Plan of Subdivision Application (25T-201905) for lands located at the Northeast and Southeast corners of Highway No. 6 and 30 Dundas Street East, Flamborough (OLT-21-001345) (LS22004(a)/PED22019(a)) (Ward 15)
- 15.3 Appeal to the Ontario Land Tribunal (OLT) of By-law #22-258, Melville Street Heritage Conservation District Study Area (LS23017/PED23075) (Ward 13)
- 15.4 Committee of Adjustment Decision regarding Minor Variance Application (AN/A-22:180) for Lands Located at 64 Lovers Lane, Ancaster (LS23015) (Ward 12)

(Cassar/Tadeson)

That the agenda for the April 4, 2023 Planning Committee meeting be approved, as amended.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**(i) March 21, 2023 (Item 4.1)****(Tadeson/Hwang)**

That the Minutes of the March 21, 2023 meeting be approved, as presented.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
NOT PRESENT – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson
YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

(d) COMMUNICATIONS (Item 5)**(i) ACORN Hamilton respecting 1083 Main Street East (Item 5.1)****(Pauls/Beattie)**

That the Communication from ACORN Hamilton respecting 1083 Main Street East, be received.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
NOT PRESENT – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson
YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

- (ii) **Greg Dunnett, Hamilton Chamber of Commerce respecting Outdoor Commercial Patios - Routine Minor Variances and Temporary Use By-laws (Item 12.1) (Added Item 5.2)**

(Francis/McMeekin)

That the Communication from Greg Dunnett, Hamilton Chamber of Commerce respecting Outdoor Commercial Patios - Routine Minor Variances and Temporary Use By-laws (Item 12.1), be received.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

(e) DELEGATION REQUESTS (Item 6)

- (i) **Matt Johnston, Urban Solutions, respecting Redesignation of Class 4 Noise Designation for 115 and 121 Vansitmart Avenue (For a future meeting) (Item 6.1)**

(Hwang/Cassar)

That the Delegation Request from Matt Johnston, Urban Solutions, respecting Redesignation of Class 4 Noise Designation for 115 and 121 Vansitmart Avenue, be approved for a future meeting.

Result: Motion CARRIED by a vote of 11 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie

YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

(f) DELEGATIONS (Item 7)

**(i) Joel Tavormina respecting an Extension for Reconstruction
(approved at the March 21st meeting) (Item 7.1)**

Joel Tavormina addressed the Committee respecting an Extension for Reconstruction.

(Tadeson/McMeekin)

That the Delegation from Joel Tavormina respecting an Extension for Reconstruction, be received.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

For disposition of this matter, refer to Item 6 and (g)(ii).

**(ii) Mike Burnet, ACORN, respecting a Landlord Registry
(Approved at the February 14th meeting and deferred from the March
21st meeting) (Item 7.2)**

Mike Burnet was not in attendance when called upon.

(g) NOTICES OF MOTION (Item 13)**(i) Demolition Permit for 1262 Centre Road, Flamborough (Added Item 13.1)****(McMeekin/Beattie)**

That the Rules of Order be waived to allow for the introduction of a Motion respecting a Demolition Permit for 1262 Centre Road, Flamborough.

Result: Motion CARRIED by a 2/3's majority vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
YES – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson
YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

For disposition of this matter, refer to Item 5.

(ii) Extension for Reconstruction at 3334 Homestead Drive, Glanbrook (Added Item 13.2)**(Tadeson/M. Wilson)**

That the Rules of Order be waived to allow for the introduction of a Motion respecting Extension for Reconstruction at 3334 Homestead Drive, Glanbrook.

Result: Motion CARRIED by a 2/3's majority vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
YES – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson

YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

(Tadeson/M. Wilson)

WHEREAS a permit to demolish the existing residential building containing a single family dwelling (the “original building”) at 3334 Homestead Drive, Glanbrook was issued to the owner, Joel Tavormina, on August 5, 2018.

WHEREAS a condition of the demolition permit required the owner to construct and substantially complete the new residential building containing a single family dwelling (the “replacement building”) that was proposed to be erected on the property not later than two (2) years from date of the demolition of the original building.

WHEREAS on September 4, 2018 the original building was demolished and the condition of the demolition permit required that the replacement single family dwelling be constructed and substantially complete not later than September 4, 2020.

WHEREAS on May 1, 2019 the partially constructed replacement building caught on fire during construction and was substantially damaged, which did not alter the condition that the replacement building be constructed and substantially complete by September 4, 2020.

WHEREAS on May 31, 2019 a permit to demolish the fire damaged partially constructed replacement building and a replacement reconstruction permit were issued to permit the construction of another replacement building.

WHEREAS the owner has not commenced construction of the second replacement building.

WHEREAS pursuant to subsection 33(7) of the *Planning Act*, upon failure to complete the replacement building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector’s roll, to be collected in like manner as municipal taxes, the sum of \$20,000, as specified in the permit.

WHEREAS pursuant to subsections 33(11) and (12) of the *Planning Act*, the demolition permit holder may submit a notice of application to the clerk requesting relief by Council from the conditions on which the permit was issued where the holder of the permit is of the opinion it is not possible to complete the replacement building within the time specified in the permit

or that the construction of the replacement building has become not feasible on economic or other grounds, and this notice must be filed not less than sixty (60) days before the time specified in the permit for the construction of the replacement building.

WHEREAS the statutory timeline to apply for relief from the conditions of the permit expired on July 6, 2020.

WHEREAS subsection 33(13) of the *Planning Act*, authorizes Council to extend the sixty (60) day timeline for making of an application for relief from the conditions on which the permit was issued.

WHEREAS subsection 33(14) of the *Planning Act* specifies where an application is made under subsection (11), the council shall consider the application and may grant the same or may extend the time for completion of the replacement building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the replacement building.

WHEREAS the permit holder has requested that Council exercise its authority under subsection 33(13) of the *Planning Act* to extend the sixty (60) day period to submit notice and apply for relief as provided under subsection 33(11) and (12) of the *Planning Act*.

WHEREAS Council has considered the permit holder's applicant.

NOW THEREFORE BE IT RESOLVED:

That the permit holder be granted an extension to file a notice of application under section 33(13) of the *Planning Act* and is granted relief from the conditions to construct a replacement building on the property at 3334 Homestead Drive, Glanbrook.

(Cassar/Danko)

That the above motion, be ***amended*** by adding a timeline, as follows:

That the permit holder be granted an extension to file a notice of application under section 33(13) of the *Planning Act* and is granted relief from the ***time for completion of*** a replacement building, on the property at 3334 Homestead Drive, Glanbrook, ***from two (2) years of the date of the demolition of the original building to two (2) years from the date of Council resolution.***

Result: *Amendment* CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

For disposition of this matter, refer to Item 6 and (f)(i).

(h) GENERAL INFORMATION / OTHER BUSINESS (Item 14)

(i) Outstanding Business List (Item 14.1)

(Tadeson/Francis)

That the following changes to the Outstanding Business List, be approved:

(a) Items to be Removed

12B - Request to Designate 437 Wilson Street East (Ancaster)
 (Addressed as Item 9 on Planning Committee Report 23-004)

14A - Adding 206, 209 and 210 King St E to the Register of
 Property of Cultural Heritage Value or Interest
 (Addressed as Item 9 on Planning Committee Report 23-004)

17B - Designation of the Gore District as a Heritage Conservation
 District
 (Addressed as Item 9 on Planning Committee Report 23-004)

21Q - Options for Fee/Cost Recoveries for Multiple Requests for
 Same Property being removed from the Heritage Registry
 (Hamilton Municipal Heritage Committee Report 21-005
 (Addressed as Item 9 on Planning Committee Report 23-004)

22B - MCR / Official Plan Review
 (Addressed as Item (i)(iii) on Planning Committee Report 22-014 -
 Referred to the November 30, 2022 Special Council meeting)

(b) Items to be Added

Annual Report on the Impacts of the No Growth Option
(Referred to the Planning Committee at the March 22, 2023
General Issues Committee meeting) (November 19, 2021, GIC 21-
023, Item 3(h))

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
YES – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson
YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

(i) PRIVATE AND CONFIDENTIAL (Item 15)

(i) Closed Session Minutes – March 21, 2023 (Item 15.1)

(Hwang/Cassar)

That the Closed Session Minutes dated March 21, 2023 be approved, as presented, and remain confidential.

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
YES – Ward 2 Councillor C. Kroetsch
YES – Ward 3 Councillor N. Nann
YES – Ward 4 Councillor T. Hwang
YES – Ward 5 Councillor M. Francis
YES – Ward 7 Councillor E. Pauls
YES – Ward 8 Councillor J.P. Danko
YES – Ward 10 Councillor J. Beattie
YES – Ward 11 Councillor M. Tadeson
YES – Ward 12 Councillor C. Cassar
YES – Ward 13 Councillor A. Wilson
YES – Ward 15 Councillor T. McMeekin

(Beattie/Tadeson)

That Committee move into Closed Session for Items 15.2, 15.3 and 15.4, Pursuant to Section 9.3, Sub-sections (e), (f) and (k) of the City's Procedural By-law 21-021, as amended; 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..

Result: Motion CARRIED by a vote of 12 to 0, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 YES – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

- (ii) Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-19-012), Zoning By-law Amendment Application (ZAC-19-044) and Draft Plan of Subdivision Application (25T-201905) for lands located at the Northeast and Southeast corners of Highway No. 6 and 30 Dundas Street East, Flamborough (OLT-21-001345) (LS22004(a)/PED22019(a)) (Ward 15) (Added Item 15.2)**

For disposition of this matter, refer to Item 7.

- (iii) Appeal to the Ontario Land Tribunal (OLT) of By-law #22-258, Melville Street Heritage Conservation District Study Area (LS23017/PED23075) (Ward 13) (Added Item 15.3)**

For disposition of this matter, refer to Item 8.

- (iv) Committee of Adjustment Decision regarding Minor Variance Application (AN/A-22:180) for Lands Located at 64 Lovers Lane, Ancaster (LS23015) (Ward 12) (Added Item 15.4)**

For disposition of this matter, refer to Item 9.

(j) ADJOURNMENT (Item 16)

(Francis/Tadeson)

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

Result: Motion CARRIED by a vote of 11 to 0, as follows:

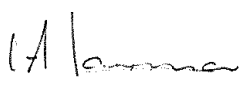
- YES – Ward 1 Councillor M. Wilson
- YES – Ward 2 Councillor C. Kroetsch
- YES – Ward 3 Councillor N. Nann
- YES – Ward 4 Councillor T. Hwang
- YES – Ward 5 Councillor M. Francis
- NOT PRESENT – Ward 7 Councillor E. Pauls
- YES – Ward 8 Councillor J.P. Danko
- YES – Ward 10 Councillor J. Beattie
- YES – Ward 11 Councillor M. Tadeson
- YES – Ward 12 Councillor C. Cassar
- YES – Ward 13 Councillor A. Wilson
- YES – Ward 15 Councillor T. McMeekin

Councillor J.P. Danko
Chair, Planning Committee

Lisa Kelsey
Legislative Coordinator



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 18, 2023
SUBJECT/REPORT NO:	Amendments to Site Alteration By-law 19-286 (PED23067) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Carlo Ammendolia (905) 546-2424 Ext. 2155
SUBMITTED BY:	Ashraf Hanna Director, Growth Management and Chief Development Engineer Planning & Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the amending By-law permitting Employment Lands to obtain a Site Alteration permit in advance of Draft Plan Approval and minor technical amendments and improvements attached as Appendix "A" to Report PED23067 and prepared in a form satisfactory to the City Solicitor, be passed.

EXECUTIVE SUMMARY

Staff is recommending several amendments to the Site Alteration By-law No.19-286 which would facilitate Council's approval through Report PED16161(b) to permit Developers of Employment Lands to advance stockpiling and limited pre-grading activities on their lands in advance of Draft Plan Approval. The proposed amendments have been incorporated into an amending Site Alteration By-law included as Appendix "A" attached Report PED23067 and includes clarification with respect to statutory exemptions and an exclusion for those lands with Employment Area designations shown on Schedule E-1 of the Urban Hamilton Official Plan (UHOP), as amended.

These amendments will exempt subject employment lands from the prohibition cited in Section 9 of the By-law and subject to clearing conditions of approval and executing a

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**SUBJECT: Amendments to Site Alteration By-law 19-286 (PED23067) (City Wide)
- Page 2 of 5**

Site Alteration Agreement, Developers of Employment Lands will be permitted to proceed with stockpiling and limited pre-grading activities on its subject lands in advance of Draft Plan of Subdivision approval.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

On October 27, 2021, Council approved Report PED16161(b) authorizing the General Manager of Planning and Economic Development to execute existing standard form Development Agreements with Developers of Employment Lands for the purpose of permitting stockpiling soil and limited pre-grading on its subject lands in advance of Draft Plan of Subdivision approval.

In recent years, the City has experienced significant growth in employment land development and interest of businesses locating in Hamilton is increasing, particularly in the AEGD. As the City proceeds with the planned implementation of strategic servicing projects in the AEGD and Red Hill Business Parks South, significant quantities of fill material will be required to facilitate the servicing of these lands to provide adequate water and wastewater outlets. Currently, developers are not permitted to alter their lands until they obtain engineering approvals following approval of a Site Plan or Plan of Subdivision, the latter also requires a Subdivision Agreement before proceeding. For subdivisions, staff could enter into a Pre-grading Agreement with a developer in advance of subdivision approval. With Council approval of report PED 16161(b), the Pre-grading can be used to permit the stockpiling and limited pre-grading of fill by a developer in advance of subdivision approval to permit the stockpiling and limited pre-grading of fill by a developer on their lands, if it can be demonstrated that having to wait for approval would:

- Detrimentially affect the developer's ability to deliver serviced land to an end-user in a timely manner; and
- The proposed stockpiling and limited pre-grading can be implemented without materially impacting abutting land owners.

SUBJECT: Amendments to Site Alteration By-law 19-286 (PED23067) (City Wide)
- Page 3 of 5

In that regard, staff have investigated the ability of Developers of Employment Lands to enter into Development Agreements with the City, in advance of development approvals where it is deemed beneficial to support the City's Shovel Ready Initiative.

Following Council approval of Report PED16161(b), staff determined that permitting these activities in advance of Draft Plan of Subdivision approval conflicts with Site Alteration By-law No.19-286, specifically Section 9 of the By-law titled "No Permit Granted for Planning Act Applications". Section 9 generally prohibits the issuance of a Site Alteration Permit for a site which is the subject of or included within any pending Planning Act application to the City.

Report PED23067 is intended to remove the conflict by proposing amendments to the Site Alteration By-law.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

There are no policy implications or additional legislated requirements that would arise with approval of this Report PED23067.

RELEVANT CONSULTATION

Staff have consulted with Legal Services to confirm any conflicts or changes required to the City's Site Alteration By-law No.19-286 to facilitate the Council permission to execute Site Alteration Agreements with Developers of Employment Lands in advance of Draft Plan of Subdivision approval.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

By approving Report PED16161(b), Council authorized staff to execute existing standard form Development Agreements with Developers of Employment Lands for the purpose of permitting stockpiling soil and limited pre-grading on its subject lands in advance of Draft Plan of Subdivision approval.

This authority of staff permits Developers of Employment Lands to advance activities that are currently not permitted prior to approval of a Plan of Subdivision application if it can be demonstrated that having to wait for Draft Plan of Subdivision approval would:

- Detrimentally affect the developer's ability to deliver serviced land to an end-user in a timely manner; and,
- The proposed stockpiling and limited pre-grading can be implemented without materially impacting abutting land owners.

SUBJECT: Amendments to Site Alteration By-law 19-286 (PED23067) (City Wide)
- Page 4 of 5

Permitting these activities in advance of Draft Plan of Subdivision approval conflicts with Site Alteration By-law No.19-286, specifically Section 9 of the By-law titled “No Permit Granted for Planning Act Applications”. Section 9 generally prohibits the issuance of a Site Alteration Permit for a site which is the subject of or included within any pending Planning Act application to the City.

Staff has considered several amendments to the Site Alteration By-law which would facilitate staff’s authority to permit Developers of Employment Lands to advance stockpiling and limited pre-grading activities on their land in advance of Draft Plan Approval. The proposed amendments have been incorporated into an amending Site Alteration By-law, attached as Appendix “A” of Report PED23067, and includes an exclusion for those lands with Employment Area designations listed in Schedule E-1 of the UHOP, as amended.

These amendments will exempt subject employment lands from the prohibition cited in Section 9 of By-law No.19-286 and subject to clearing conditions of approval and executing Site Alteration Agreement, Developers of Employment Lands will be permitted to proceed with stock-piling and limited pre-grading activities on its subject lands in advance of Draft Plan of Subdivision approval. The works shall be administered through a Site Alteration Agreement and Permit which will be valid for a period of no longer than two years.

Should Draft Plan Approval not be achieved within the two-year time frame, the applicant will be required to remediate the lands to the satisfaction of the City, including any grading and re-vegetation.

ALTERNATIVES FOR CONSIDERATION

If Council chooses not to implement the proposed By-law amendments, then staff would not be able to implement its authority approved by Council in Report PED16161(b) to permit Developers of Employment Lands to stockpile fill and pre-grade its subject lands prior to Draft Plan of Subdivision approval.

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.

SUBJECT: Amendments to Site Alteration By-law 19-286 (PED23067) (City Wide)
- Page 5 of 5

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

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 PED23067 - Being a By-law to make technical amendments and improvements to By-law 19-286

CA:ch

Appendix "A" to Report PED23067

Page 1 of 3

Authority: By-law No.
CM:
Ward:

**CITY OF HAMILTON
BY-LAW NO. 23-**

Being a By-law to make technical amendments and
improvements to By-law 19-286

WHEREAS the municipal Council of the City of Hamilton enacted By-law 19-286 on November 28, 2019 to prohibit and regulate the placing or dumping of fill, the removal of topsoil, and the alteration of the grade of lands within the municipality;

AND WHEREAS Council of the City of Hamilton deems it necessary to enact a By-law to make technical amendments and improvements to By-law 19-286;

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

1. Section 3 of By-law 19-286 is amended by deleting the definition of "Director" and substituting the following therefor:

"Director" means the Director and Chief Development Engineer of the City of Hamilton or designate.

2. Section 3 of By-law 19-286 is amended by adding the following definition thereto:

"Site" and "Property" are synonyms that both mean a parcel of land which can be legally conveyed pursuant to the provisions of the Planning Act.

3. Section 5 of By-law 19-286 is repealed and the following substituted therefor:

Statutory Exceptions - Interpretation

5 This By-law is not intended nor shall it apply to any activities or matters identified in the Municipal Act from time to time as matters to which a By-law passed under section 142 of the Municipal Act does not apply. For ease of reference, as of the date of the passage of this By-law, this By-law therefore does not apply to any of the activities or matters described in section 142(5)(a) through (g) of the Municipal Act and, subject to subsection 142(7) of the Municipal Act, this By-law does not apply to any of the activities or matters described in section 142(6) of the Municipal Act.

Appendix “A” to Report PED23067
Page 2 of 3

4. Section 8 of By-law 19-286 is hereby repealed.
5. Section 9 of By-law 19-286 is hereby repealed and the following substituted therefor:

No permit to be issued where certain Planning Act Applications are Pending

9(1) No site alteration permit shall be issued for a site which is the subject of or included within any pending application to the City for the approval of any of the following Planning Act approvals: a Site Plan, a Plan of Subdivision, a Consent, or a Development Permit.

9(2) For purposes of subsection (1), a pending application is an application that has been submitted to the City but on which:

- (a) a decision has not been made;
- (b) a decision has been made but that decision has been appealed and a decision on the appeal has not yet been rendered; or,
- (c) a decision has been made but any applicable appeal period has not yet expired.

9(3) Subsection (1) shall not prohibit the issuance of a site alteration permit for a site on which there is a pending application for a Plan of Subdivision if the Site is within an area having any of the Employment Area designations shown on Schedule E-1 of the Urban Hamilton Official Plan, as amended.

9(4) Section 31(2) shall not apply to a site alteration permit issued pursuant to subsection (3).

6. Sections 14(1) and 15(4) of By-law 19-286 are both amended by deleting the phrase “other than as described in subsection 5(2)” therefrom.
7. Section 25 of By-law 19-286 is amended by renumbering the existing section as 25(1) and adding the following subsection 25(2) thereto:

25(2) Subsection (1) shall not apply to a Site that is within an area having any of the Employment Area designations shown on Schedule E-1 of the Urban Hamilton Official Plan, as amended.
8. Section 29(1) of By-law 19-286 is amended by deleting the words “section 25” and substituting the words “section 26” therefor.
9. Section 29(2) of By-law 19-286 is amended by deleting the words “section 25” and substituting the words “section 26” therefor.

Appendix "A" to Report PED23067
Page 3 of 3


PASSED this day of , 2023

Mayor

Clerk



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 18, 2023
SUBJECT/REPORT NO:	Demolition Permit - 295 Hamilton Drive, Ancaster - PED23085 (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Frank Peter (905)546-2424 Ext. 2781
SUBMITTED BY:	Alan Shaw Director, Building and Chief Building Official Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Chief Building Official be authorized to issue a demolition permit for 295 Hamilton Drive, Ancaster, in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act*, subject to the following conditions:

- (a) That the applicant has applied for and received a building permit for a replacement building on this property;
- (b) That the said building permit specifies that if the replacement building is not erected within two (2) years of the demolition of the existing building on the property, the City be paid the sum of \$20,000 which sum:
 - (i) the City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes; and
 - (ii) is a lien or charge on the property until paid; and
- (c) That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions in a form satisfactory to the Chief Building Official and the City Solicitor.

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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.

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

SUBJECT: Demolition Permit - 295 Hamilton Drive, Ancaster - PED23085 (Ward 12) - Page 2 of 5

EXECUTIVE SUMMARY

The owner of 295 Hamilton Drive, Ancaster, is seeking demolition approval for the house that was removed (without the requisite demolition permit) in 2021. Demolition of a house is subject to Demolition Control Area By-law 22-101. Under By-law 22-101, in certain scenarios, Council delegates demolition approval of a Residential Property to the Chief Building Official.

The most common and applicable scenario for delegated approval is where the erection of a new building is proposed on the site of a Residential Property to be demolished and the required standard conditions are registered on title prior to issuance of the demolition permit. The standard conditions require that a building permit for the new building be issued in conjunction with the demolition permit and that the new building be erected within two (2) years of the date of actual demolition; otherwise, \$20,000 shall be added to the tax roll.

Where the owner of the property does not agree with the required standard conditions, the Demolition Control Area By-law requires the Chief Building Official to advise Council. Council then retains all power to: (i) approve the demolition upholding the standard (rebuild) conditions, (ii) approve the demolition without the standard (rebuild) conditions, (iii) approve the demolition with modified conditions (e.g. extend or reduce the rebuild timeframe), or (iv) not approve the demolition.

This house was demolished (without the requisite demolition permit) on April 15, 2021; therefore, in accordance with the standard conditions (rebuild within two (2) years of actual demolition), the new building would need to be erected by April 15, 2023, in order to avoid \$20,000 being added to the tax roll. The owner indicated they would prefer the demolition be approved without the standard (rebuild) conditions but would be agreeable to modifying the rebuild timeframe of two (2) years, to start not from the date of actual demolition, but to start from the date the demolition permit is issued.

This Report is presented to Council as the owner is requesting demolition approval of the house without the standard conditions set out in Demolition Control Area By-law 22-101. If Council does not agree to removal of the standard conditions, the owner would request, for alternative consideration, that the rebuild timeframe be modified.

Alternatives for Consideration – See Page 4**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

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SUBJECT: Demolition Permit - 295 Hamilton Drive, Ancaster - PED23085 (Ward 12) - Page 3 of 5

Legal: N/A

HISTORICAL BACKGROUND

October 1, 2020, the owner received a building permit to renovate the existing house and add an addition.

April 15, 2021, in the process of the construction, the existing house was demolished down to the foundation; a complete and unauthorized change to what was originally approved.

April 27, 2021, the building permit was revoked as the scope of work was completely changed. A demolition permit and a new house permits are required.

January 10, 2022, (9 months later) a building permit application was accepted by the Building Division to construct a new house on the existing foundation.

May 16, 2022, (4 months after the reconstruction permit application was accepted) a demolition permit application was accepted by the Building Division.

As noted in the Executive Summary, the demolition of the house is subject to the Demolition Control Area By-law 22-101. Under this By-law, Council delegates the Chief Building Official it's authority to issue Demolition Control Approval to demolish Residential Property under certain scenarios.

The owner has submitted the required demolition and replacement building permit applications, however, does not agree to the rebuild conditions as they cannot comply with the 2 year rebuild condition since the house was demolished on April 15, 2021. This would require the new house to be constructed by April 15, 2023 or the sum of \$20,000 shall be added to the tax roll.

This Report is presented to Council as the owners are not in agreement with the recommended conditions as set out in the Demolition Control Area By-law.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not Applicable.

RELEVANT CONSULTATION

Not Applicable.

SUBJECT: Demolition Permit - 295 Hamilton Drive, Ancaster - PED23085 (Ward 12) - Page 4 of 5

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Not Applicable.

ALTERNATIVES FOR CONSIDERATION

Should Council wish to approve the demolition without imposing the conditions for a replacement dwelling, or if Council chooses to extend the time to rebuild the new house, one of the two following applicable recommendations may be appropriate:

That the Chief Building Official be authorized to issue a demolition permit for 295 Hamilton Drive, Ancaster, in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act* as amended, without having to comply with conditions 6(a) of the Demolition Control Area By-law 22-101.

Or,

That the Chief Building Official be authorized to issue a demolition permit for 295 Hamilton Drive, Ancaster, in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act*, subject to the following conditions:

- (a) That the applicant has applied for and received a building permit for a replacement building on this property;
- (b) That the said building permit specifies that if the replacement building is not erected within four (4) years of the demolition of the existing building on the property, the City be paid the sum of \$20,000 which sum:
 - (i) the City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes; and
 - (ii) is a lien or charge on the property until paid; and
- (c) That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions in a form satisfactory to the Chief Building Official and the City Solicitor.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

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SUBJECT: Demolition Permit - 295 Hamilton Drive, Ancaster - PED23085 (Ward 12) - Page 5 of 5

Economic Prosperity and Growth

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APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23085 – Location Map

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CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 18, 2023
SUBJECT/REPORT NO:	Demolition Permit - 196 Stanley Avenue (PED23086) (Ward 1)
WARD(S) AFFECTED:	Ward 1
PREPARED BY:	Frank Peter (905) 546-2424 Ext. 2781
SUBMITTED BY:	Alan Shaw Director, Building and Chief Building Official Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Chief Building Official be authorized to issue a demolition permit for 196 Stanley Avenue, Hamilton, in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act*, subject to the following conditions:

- (a) That the applicant has applied for and received a building permit for a replacement building on this property;
- (b) That the said building permit specifies that if the replacement building is not erected within two years of the demolition of the existing building on the property, the City be paid the sum of \$20,000 which sum:
 - (i) the City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes; and
 - (ii) is a lien or charge on the property until paid; and
- (c) That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions in a form satisfactory to the Chief Building Official and the City Solicitor.

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**SUBJECT: Demolition Permit - 196 Stanley Avenue (PED23086) (Ward 1) –
Page 2 of 5**

EXECUTIVE SUMMARY

The owner of 196 Stanley Avenue is proposing to demolish the existing house and create two building lots for residential purposes. Demolition of a house is subject to the Demolition Control Area By-law 22-101. Under By-law 22-101, in certain scenarios, Council delegates demolition approval of a Residential Property to the Chief Building Official.

The most common and applicable scenario for delegated approval is where the erection of a new building is proposed on the site of a Residential Property to be demolished and the required standard conditions are registered on title. The standard conditions require, prior to issuance of the demolition permit, that a building permit for the new building be issued in conjunction with the demolition permit and that the new building be erected within two (2) years of the date of the demolition; otherwise, \$20,000 shall be added to the tax roll.

Where the owner of the property does not agree with the required standard conditions, or where the Chief Building Official refuses to issue demolition control approval, the Demolition Control Area By-law requires the Chief Building Official to advise Council. Council then retains all power to: (i) approve the demolition upholding the standard (rebuild) conditions, (ii) approve the demolition without the standard (rebuild) conditions, (iii) approve the demolition with modified conditions (e.g. extend or reduce the rebuild timeframe), or (iv) not approve the demolition.

This Report is presented to Council as the owner would like to demolish the existing house without the recommended conditions set out in the Demolition Control Area By-law.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

The demolition of the house is subject to the Demolition Control Area By-law 22-101. Under this By-law, Council delegates the Chief Building Official it's authority to issue Demolition Control Approval to demolish Residential Property under certain scenarios. Only two of the scenarios are applicable to this situation.

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**SUBJECT: Demolition Permit - 196 Stanley Avenue (PED23086) (Ward 1) –
Page 3 of 5**

The most common and applicable scenario for delegated approval is where the erection of a new building is proposed on the site of a Residential Property to be demolished and the required standard conditions are registered on title. The standard conditions require, prior to issuance of the demolition permit, that a building permit for the new building be issued in conjunction with the demolition permit and that the new building be erected within two (2) years of the date of the demolition; otherwise, \$20,000 shall be added to the tax roll.

To date, the owner has not submitted a building permit application for a replacement dwelling.

The other applicable scenario, where the Chief Building Official has delegated authority to issue a demolition permit, is where the demolition of the Residential Property is a condition of an approved Consent to Sever and all other conditions of the approved consent to sever have been met.

The owner received approval to create the two (2) lots through a Consent to Sever from the Committee of Adjustment on September 8, 2022, however has not fulfilled all the other conditions, in order for the Chief Building Official to issue a demolition permit.

The owner advised they are proceeding with clearing the other conditions and due to the length of time it will take them to fulfill the conditions, they are seeking approval of the demolition permit without having to fulfil the rebuild conditions.

Therefore, as the owner does not comply with either of the two scenarios of the delegation of authority provisions of the by-law, the Chief Building Official cannot issue a demolition permit.

Where the Chief Building Official refuses to issue a demolition permit or where the owner of the property does not agree with the conditions being imposed, Section 7 of the Demolition Control Area By-law requires the Chief Building Official to advise Council. Council then retains all power to: issue, including imposing the standard rebuild condition; issue without conditions or refuse to issue the demolition permit.

This Report is presented to Council as the owners are not in agreement with the recommended conditions as set out in the Demolition Control Area By-law.

PRESENT ZONING: Low Density Residential – Small Lot (R1a) Zone.
(Zoning By-law 05-200).

PRESENT USE: Single Family Dwelling.

PROPOSED USE: Vacant Land.

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**SUBJECT: Demolition Permit - 196 Stanley Avenue (PED23086) (Ward 1) –
Page 4 of 5**

BRIEF DESCRIPTION: This is a one and a half storey single family dwelling that is structurally sound and appears to be in fair condition. This property is not on the City's Heritage inventory list.

This land is located in Ward 1. Please see Appendix "A" to this Report for a location map.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not Applicable.

RELEVANT CONSULTATION

Not Applicable.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Not Applicable.

ALTERNATIVES FOR CONSIDERATION

Should the Committee wish to approve the demolition without imposing the conditions for a replacement dwelling, the following recommendation may be appropriate:

That the Chief Building Official be authorized to issue a demolition permit for 196 Stanley Avenue, Hamilton, in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act* as amended, without having to comply with conditions 6(a) of the Demolition Control Area By-law 22-101.

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**SUBJECT: Demolition Permit - 196 Stanley Avenue (PED23086) (Ward 1) –
Page 5 of 5**

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED23086 – Location Map

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