



**City of Hamilton  
PLANNING COMMITTEE  
AGENDA**

**Meeting #:** 24-005  
**Date:** April 16, 2024  
**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

---

	<b>Pages</b>
<b>1. CEREMONIAL ACTIVITIES</b>	
<b>2. APPROVAL OF AGENDA</b> (Added Items, if applicable, will be noted with *)	
<b>3. DECLARATIONS OF INTEREST</b>	
<b>4. APPROVAL OF MINUTES OF PREVIOUS MEETING</b>	
4.1 April 5, 2024	7
<b>5. COMMUNICATIONS</b>	
5.1 Louis Nguyen respecting a Request to Reconsider the Short Term Rental Requirements Recommendation: Be received.	18
<b>6. DELEGATION REQUESTS</b>	
6.1 Delegation Requests respecting 764 Valens Road (Item 11.5) (For today's meeting) (i) Theresa Slemko (in-person) (ii) Stephen Churm (in-person)	

6.2 Wayne MacPhail, Strathcona Shadow Dwellers, respecting 200 Market Street / 55 Queen S. North (Item 9.2) (For today's meeting)

**7. STAFF PRESENTATIONS**

**8. DELEGATIONS**

**9. CONSENT ITEMS**

9.1 Detached Additional Dwelling Unit Building Permit Process (PED24036) (City Wide) 20

9.2 Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1) 50

**10. PUBLIC HEARINGS**

10.1 Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) 96

**11. DISCUSSION ITEMS**

11.1 Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) 146

11.2 Rental Housing Licensing Pilot Program Update (PED21097(e)) (Wards 1, 8 and part of 14) 160

11.3 Demolition Control Area By-law Process (PED24075) (City Wide) 165

11.4 455 King Street East and 457 - 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3) 171

11.5 Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) 182

**12. MOTIONS**

**13. NOTICES OF MOTION**

Members of the public can contact the Clerk's Office to acquire the documents considered at this meeting, in an alternate format.



## 14. GENERAL INFORMATION / OTHER BUSINESS

### 14.1 Outstanding Business List

a. Items to be Added:

23BB - Battery Energy Storage Proposals (Item 15). Item (c) referred to the Planning Committee by the General Issues Committee on November 15, 2023 and November 21, 2023.

24B - Detailed Drainage Assessment Study (Phase 2) of Rurally Serviced Existing Residential Neighbourhoods in Ancaster (PW16100(a)/PED24032) (Ward 12) (Item 11.3). Item (b) referred to the Planning Committee by the Public Works Committee on February 20, 2024.

- b. Items to be Removed:
- 22D - Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 65 Guise Street East (Pier 8, Block 16), Hamilton (PED22031(a)) (Ward 2) (Addressed as Item 8 on PC Report 23-019)
- 22R - Amendments to Expand the Permitted Uses in the Low Density Residential Zones of the Former Community Zoning By-laws of the Town of Ancaster, Town of Dundas, Town of Flamborough, Township of Glanbrook, City of Hamilton, and City of Stoney Creek and Create Two New Low Density Residential Zones in Zoning By-law No. 05-200 (PED22154) (Addressed as Item 4 on PC Report 24-003)
- 23E - Industrial/Commercial Proactive Pilot Project (PED23236) (City Wide) (Addressed as Item 9 on PC Report 23-019)
- 23K - Waterfront Ambassador Program (PED23237) (City Wide) (Addressed as Item 10 on PC Report 23-019)
- 23CC - Implementation of Canada Mortgage and Housing Corporation Housing Accelerator Fund Incentive Programs and Associated Updates to the Housing for Hamilton Community Improvement Plan (PED23143(c)) (City Wide) (Addressed as Item 4 on PC Report 24-002)
- 24A - Non-Statutory Public Meeting for Urban Hamilton Official Plan Amendment Application UHOPA-23-005 and Zoning By-law Amendment Application ZAC-23-006 Appealed to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1065 Paramount Drive, Stoney Creek (PED24028) (Ward 9) (Addressed as Item 1 on PC Report 24-002)

## 15. PRIVATE AND CONFIDENTIAL

- 15.1 Appeal to the Ontario Land Tribunal (OLT) for lands located at 1400 South Service Rd, Stoney Creek for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-21-018) and Zoning By-law Amendment Application (ZAC-21-039) (LS24006) (Ward 10)

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), Subsections (e), (f) and (k) of the Ontario Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and, a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

- 15.2 Appeal to the Ontario Land Tribunal for lands composed of Part of Lot 8, Concession 4, municipally known as 619 Centre Road, Hamilton for a lack of decision on the proposed plan of subdivision (25T-201003) (LS12031(a)) (Ward 15)

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), Subsections (e), (f) and (k) of the Ontario Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and, a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

- 15.3 Appeal to the Ontario Land Tribunal for lands located at 392, 398, 400, 402, 406 and 412 Wilson Street East & 15 Lorne Avenue for Lack of Decision on Site Plan Control Application (DA-23-011) (LS24002(a)) (Ward 12)

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), Subsections (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.

## 16. ADJOURNMENT



**PLANNING COMMITTEE  
MINUTES**

**24-004**

**April 5, 2024**

**9:30 a.m.**

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

**Present:** Councillor C. Cassar (Chair)  
Councillor T. Hwang (2nd Vice Chair)  
Councillors J. Beattie, J.P. Danko, M. Francis, C. Kroetsch,  
T. McMeekin, M. Tadeson, A. Wilson, M. Wilson

**Absent with Regrets:** Councillors E. Pauls and N. Nann - Personal

---

**THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:**

**1. Annual Report on Building Permit Fees (PED24039) (City Wide) Item 9.1)**

**(Tadeson/Kroetsch)**

That report PED24039 respecting Annual Report on Building Permit Fees, be received.

**Result: Motion CARRIED by a vote of 10 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  
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

**2. Application for a Zoning By-law Amendment for Lands Located at 81 and 87 Rymal Road East, Hamilton (PED23216) (Ward 8) (Item 10.1)****(Danko/Tadeson)**

- (a) That Zoning By-law Amendment Application ZAC-22-066 by GSP Group Inc. c/o Brenda Khes on behalf of Rymal Holding Ltd., owner, for a change in zoning from the "AA" (Agricultural) District to the Transit Oriented Corridor Multiple Residential (TOC3, 874, H162) Zone, to permit an eight storey multiple dwelling containing 210 units and two, three storey multiple dwellings (townhouses) containing 10 dwelling units, on lands located at 81 and 87 Rymal Road East, as shown on Appendix "A" attached to Report PED23216, be APPROVED, on the following basis:
- (i) That the REVISED draft By-law, attached as Appendix "B" to Report PED23216, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the amending By-law apply the Holding Provisions of Section 36(1) of the Planning Act, R.S.O. 1990 to the subject property by introducing the Holding symbol 'H' to the proposed Transit Oriented Corridor Multiple Residential (TOC3, 874, H162) Zone; The Holding Provision 'H' is to be removed, conditional upon:
    - (1) That the properties municipally known as 81 and 87 Rymal Road East be merged in title, to the satisfaction of the Director of Planning and Chief Planner;
    - (2) That the Owner submit a revised Functional Servicing Report to demonstrate that the increased wastewater generated from the proposed development will not adversely impact the hydraulic performance of the City's sanitary sewer system by completing a sanitary sewer analysis to demonstrate that there is a residual capacity in the system to support the proposed development, to the satisfaction of the Director of Development Engineering;
    - (3) That the Owner submit a Stormwater Management Report and design to demonstrate there is a suitable storm outlet for the proposed development, to the satisfaction of the Director of Development Engineering;
    - (4) That the Owner submit a Watermain Hydraulic Analysis identifying the modelled system pressures at pressure district level, under various boundary conditions and demand scenarios, to demonstrate that the municipal system can

provide for required flows to support the proposed development, to the satisfaction of the Director of Development Engineering;

- (5) That the Owner shall convey to the City, without cost and free of encumbrance, the road widening as shown on the DiCenzo Sobie Draft Plan of Subdivision 25T-87032 through a future Site Plan Control application, to the satisfaction of the Director of Development Engineering;
- (6) That the Owner enter into and register on title of the lands, an External Works Agreement with the City, in accordance with the Functional Servicing Report and Watermain Hydraulic Analysis, for the design and construction of any required improvements to the municipal infrastructure including the DiCenzo Drive extension, at the Owner's cost, as upgrades are required to the infrastructure to support the development, to the satisfaction of the Director of Development Engineering;
- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), and complies with the Urban Hamilton Official Plan.

**Result: Motion CARRIED by a vote of 10 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  
 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

**3. Taxi Financial Incentive Pilot Program (PED24035) (City Wide) (Item 11.1)**

**(Hwang/Tadeson)**

- (a) That the Accessible Taxi Financial Incentive Pilot Program, be extended beyond April 1, 2024, up to such time as when the comprehensive review

of Licensing By-law 07-170, Schedule 25 (Taxicabs) is completed as per direction through Planning Committee report 23-020 Item 8.

- (b) That subject to the approval of recommendation (a), the City of Hamilton User Fees and Charges By-law No. 24-036 be amended to support the temporary extension of the pilot program.

**Result: Motion CARRIED by a vote of 9 to 0, as follows:**

YES – Ward 1 Councillor M. Wilson  
 YES – Ward 2 Councillor C. Kroetsch  
 NOT PRESENT – Ward 3 Councillor N. Nann  
 NOT PRESENT – 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:

**6. DELEGATIONS**

6.1 Delegations respecting Taxi Financial Incentive Program (Item 11.1) (For today's meeting)

- (i) James Kemp

**10. PUBLIC HEARINGS**

10.1 Application for a Zoning By-law Amendment for Lands Located at 81 and 87 Rymal Road East, Hamilton (PED23216) (Ward 8) - REVISED Appendix "B"

- (a) Written Submissions:

- (i) Hamid Hakimi, Elite Developments



- 10.2 Application for a Zoning By-law Amendment for Lands Located at 64 Hatt Street, Dundas (PED23164) (Ward 13)

DEFERRED to a future meeting

**(Kroetsch/Hwang)**

That the agenda for the April 5, 2024 Planning Committee meeting be approved, as amended.

**Result: Motion CARRIED by a vote of 9 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  
 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  
 NOT PRESENT – Ward 15 Councillor T. McMeekin

**(b) DECLARATIONS OF INTEREST (Item 3)**

None declared.

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

**(i) February 23, 2024 (Item 4.1)**

**(Tadeson/Hwang)**

That the Minutes of the February 23, 2024 meeting be approved, as presented.

**Result: Motion CARRIED by a vote of 9 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  
 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  
 NOT PRESENT – Ward 15 Councillor T. McMeekin

**(d) DELEGATION REQUESTS (Item 6)**

**(i) Delegation respecting Taxi Financial Incentive Program (Item 11.1)  
(Added Item 6.1)**

**(114) James Kemp, respecting Taxi Financial Incentive Program**

**(Hwang/A. Wilson)**

That the following Delegation Requests Item 6.1, be approved for today's meeting.

**Result: Motion CARRIED by a vote of 10 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  
 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

**(e) DELEGATIONS (Item 7)**

**(i) Delegation respecting Taxi Financial Incentive Program (Item 11.1)  
(Added Item 7.1)**

The Following delegation addressed the Committee respecting Taxi Financial Incentive Program (Item 11.1):

(i) James Kemp (Added Item 7.1)

**(Hwang/Tadeson)**

That the following Delegations respecting Taxi Financial Incentive Program (Item 11.1), be received.

(i) James Kemp (Added Item 7.1)

**Result: Motion CARRIED by a vote of 10 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  
 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

**(f) CONSENT ITEMS (Item 9)**

**(i) Annual Report on Building Permit Fees (PED24039) (City Wide) (Item 9.1)**

**(Kroetsch/M. Wilson)**

That City staff provide a breakdown, by Ward, of the Annual Report of Building Permit Fees, including the past five years of data, for the next Planning Committee meeting, and as part of future reporting; and, that the report back to Committee include the Building Permit fees and fines collected under the *Building Act*.

**Result: Motion CARRIED by a vote of 10 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  
 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 disposition of this matter, refer to Item 1.

**(g) PUBLIC HEARINGS (Item 10)**

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

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

**(i) Application for a Zoning By-law Amendment for Lands Located at 81 and 87 Rymal Road East, Hamilton (PED23216) (Ward 8) (Deferred from the December 5th and January 16th Meetings) (Item 10.1)**

**(a) (Kroetsch/Danko)**

(a) That the following public submissions regarding this matter be received:

(i) James Kemp

**Result: Motion CARRIED by a vote of 10 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  
 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 disposition of this matter, refer to Item 2.

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

**(i) General Manager's Update (Added Item 14.1)**

Steve Robichaud, Acting General Manager of Planning and Economic Development, advised the Committee of staffing changes due to his assuming the role of Acting General Manager; that Provincial legislation respecting development approvals, the Housing Action Plan and Policy changes is expected as soon as next week; that there are two reports coming to the April 16<sup>th</sup> Planning Committee meeting respecting Accessible Dwelling Units and the Demolition Control By-law; that there will be a presentation to the Open For Business Sub-committee on April 8<sup>th</sup> respecting Construction planning, along with an update on the Development and Building application processes; and that the Ontario Land Tribunal issued a decision on a development at Wilson and Lorne Streets in Ancaster, dismissing the Site Plan appeal on the basis that the Official Plan is the guiding document for height restrictions.

**(Kroetsch/Hwang)**

That the General Manager's Update be received.

**Result: Motion CARRIED by a vote of 10 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  
 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

**(i) PRIVATE & CONFIDENTIAL (Item 15)**

**(i) Closed Session Minutes – February 23, 2024 (Item 15.1)**

**(Kroetsch/McMeekin)**

(a) That the Closed Session Minutes dated February 23, 2024, be approved as presented; and,

- (b) That the Closed Session Minutes dated February 23, 2024, remain confidential.

**Result: Motion CARRIED by a vote of 10 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  
 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

**(j) ADJOURNMENT (Item 16)**

**(Tadeson/McMeekin)**

That there being no further business, the Planning Committee be adjourned at 10:35 a.m.

**Result: Motion CARRIED by a vote of 10 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  
 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 C. Cassar, Chair  
Planning Committee

---

Lisa Kelsey  
Legislative Coordinator

**From:** Louis

**Sent:** Monday, February 26, 2024 5:29 PM

**To:** Office of Ward 3 City Councillor Nrinder Nann <ward3@hamilton.ca>

**Cc:** McGillivray, Alex <Alex.McGillivray@hamilton.ca>; Kelsey, Lisa <Lisa.Kelsey@hamilton.ca>; Bates, Tamara <Tamara.Bates@hamilton.ca>

**Subject:** Request the City to reconsider the STR's licensing program's requirements

Hamilton City, Feb 26, 2024

To the Attention of Ms Nrinder Nam, Councillor of Ward 3, Hamilton City

Re: Request to reconsider the STR's licensing program's requirements from Hamilton City

My name is Louis Nguyen, a retired man living in Ward 3, Hamilton City

I have no income, thus in order to pay the mortgage and other house maintenance expense, I have my basement unit rent out in long term basis to a retired couple, and 3 bedrooms in the main floors for Airbnb in my principal house.

Nearly all of my Airbnb guests are visitors / international students from other provinces or countries coming to Hamilton to visit or to look for working / investing opportunities. They are totally satisfied staying with us because of affordable price and conveniences we offer, and nearly all of them gave me 5-star review which helped me become a super host of Airbnb even though we have nothing but bedrooms with a shared bathroom and no kitchen.

I totally agree with the Hamilton City 's program to manage the STR and did my best to comply with licensing procedure to get the license though it costs a lot of efforts and money to complete. However, my application is rejected because I could not comply with the insurance requirement as per the City by-law 07 -170, schedule 32 which requires (1) Host Liability or Commercial General Liability coverage of 1M per occurrence for personal injury, bodily injury, death and damage to property and (2) A provision that the City will be notified with no less than 30 days written notice of any cancelation"

I would like you to consider this requirement again because I found this totally impractical because of following reasons:

1. While Airbnb offers their hosts with the Aircover policy covering host liability (please find the copy of the policy attached) which covers exactly the same coverage, I do not understand why the requirement asks us to supply again a host liability coverage? It does not make any sense but a waste of resource because in case of need, only one policy is totally enough to cover the host liability. And you may also know that the Aircover policy from Airbnb is in fact not free, because they (Airbnb) pay it from the budget extracted from our contribution through the Airbnb fees we pay to the platform for each booking.

Besides, nearly no insurance company offers us the host liability coverage. Some of them do offer the Commercial General Liability (CGL) with a very high premium, averagely from \$6,000 - \$7,000 per year, nearly all of our annual net income from our STR business. But I think it is not adequate to consider our very small business commercial with total income under \$30,000 per year.

2. The insurance company also refuses to add a provision to notice Airbnb any cancelation within 30 days. According to their policy, such a notice is given to the one who share a "insurable interest" in the premise like the mortgagee / the lender only. This requirement is totally impractical.



We know that the City wants to restrict the STR to encourage house owners to covert their rental premises to long term ones; However, not all of us can do so. In my case for example, I could share only 3 bedrooms in my own house for STR and can never covert them to long term rental because it is not a complete unit (without kitchen nor laundry).

Please kindly consider also our contribution to the City, not only in our tax paying every year from this STR but also our addition to the City affordable accommodation which is now in crisis, attracting visitors to Hamilton contributing to the development of the City's economy.

All of these contributions will not be done if we cannot have the STR license; worse still, we could face a possibility of becoming homeless, adding a burden to the City because we cannot afford the mortgage payment without doing this business

In short, writing this letter, we would like to ask you as our representative to have a voice to the City to consider again the bylaw which is not practical at all.

At least, we request the City to treat our case as a particular one, giving priority to very small business owners offered by seniors like us who have limited income to have a more flexible and favorable requirements to do the STR business.

Thank you very much for your kind assistance. We wish you all the best to continue supporting us, the residents of Ward 3, Hamilton City.

Looking forward to hear from you soon. Please do not hesitate to contact me if you need further information of my case

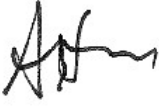
Sincerely Yours,

Louis Nguyen

P/s: FYI- By the time I am about to send this letter, I receive another notice from the licensing department asking me to increase the insurance coverage to 2M instead of 1M as previously stated. And again, they insist in asking for a provision in the policy to notice the City in case of any cancelation, which is denied by all the insurance companies in the market because it is impractical and against their policy.



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Detached Additional Dwelling Unit Building Permit Process (PED24036) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Jorge M. Caetano (905) 546-2424 Ext. 3931
<b>SUBMITTED BY:</b>	Alan Shaw Director, Building and Chief Building Official Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

On May 24, 2023, Council provided the following direction to staff:

- (a) That to encourage more homeowners to pursue Detached Secondary Dwelling Units (SDU-D's), that staff report back in Q1 of 2024 on a program to assist homeowners in the SDU-D design and permitting processes, including consideration of measures such as:
  - (i) Expediting the permitting and approvals process for SDU-Ds through a "one window" dedicated approvals team;
  - (ii) Providing access to a library of permit-ready design templates for SDU-Ds;
  - (iii) Developing a one-stop SDU-D website that provides a comprehensive inventory of SDU-D information, guidance, resources and summarizes SDU-D regulations and permitting steps;
  - (iv) Facilitating connections among prospective SDU-D owners and residents and relevant experts in the design and construction community; and

---

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.

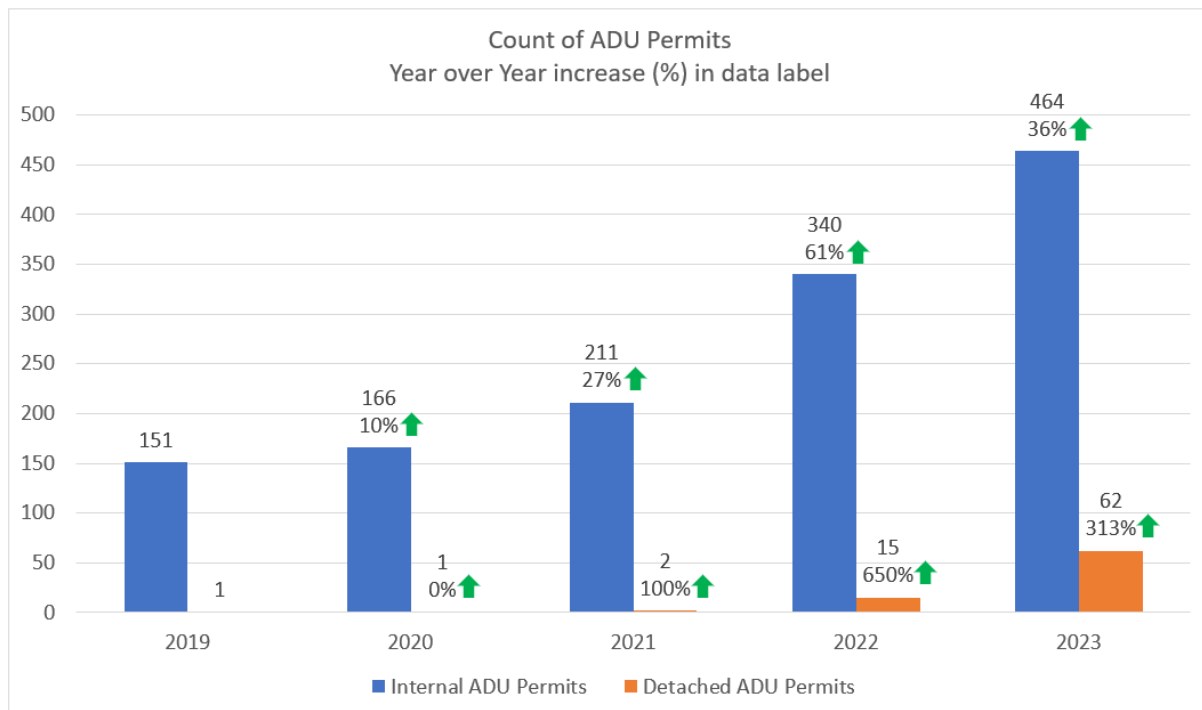
**SUBJECT: Detached Additional Dwelling Unit Building Permit Process (PED24036)  
(City Wide) - Page 2 of 6**

- (v) Partnering with nonprofits, public agencies, and private organizations to develop models for affordable SDU-D construction, using best practices gleaned from other jurisdictions.

This report will address the above noted direction.

**BACKGROUND**

In 2021 the City of Hamilton amended Hamilton's zoning by-laws, which were further amended in 2022, allowing for the creation of additional dwellings units to an existing single-family dwelling (up to two internal units & one detached unit). Since these changes came into effect our Division has seen an increase in both the number of inquiries and permit applications for the creation of an additional dwelling unit in a house and for a detached dwelling in the rear yard. The chart below provides a breakdown of the number of additional dwelling unit permits (ADU), both internal and detached, issued by our Division from 2019 to 2023.



As can be seen from the chart above most ADUs have been internal, however, since the zoning by-law was amended to allow detached ADUs our Division has seen a steady increase in the past 2 years. The next chart provides a breakdown of number of ADU permits issued by ward number.

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: Detached Additional Dwelling Unit Building Permit Process (PED24036)  
(City Wide) - Page 3 of 6**

---

2019-2023 ADU Permits by Ward			
Ward	Internal ADU	Detached ADU	Total
1	66	11	77
2	37	7	44
3	159	5	164
4	93	11	104
5	67	3	70
6	176	6	182
7	200	15	215
8	200	10	210
9	77		77
10	36	4	40
11	23	1	24
12	48		48
13	12	2	14
14	76	6	82
15	62		62
Total	1332	81	1413

This chart shows that wards 6, 7 and 8 had the most ADU permits issued (internal and detached) from 2019 to 2023, followed by wards 3 and 4.

## INFORMATION

Below is the response from the Building Division to each of the directions given by Council on May 24, 2023.

- (i) *Expediting the permitting and approvals process for SDU-Ds through a “one window” dedicated approvals team;*

On June 12, 2023, the Building Division created a new ADU (Additional Dwelling Unit) team that aids those applicants wishing to create an additional dwelling in their home or construct a detached secondary dwelling in their backyard. This team originally comprised of 5 full time Plan Examiners, however, due to the increase in inquiries and permit applications this team has just recently been increased to 6. This team handles all ADU (internal and detached) permit applications. By having this dedicated team, the Building Division can develop a group of specialized staff members that can answer ADU inquiries in a timely manner and that are able to expedite ADU building permit applications. A dedicated phone extension (905-546-2424 ext. 5117) and email address, [aduteam@hamilton.ca](mailto:aduteam@hamilton.ca), have also been created so that customers can inquire directly with the ADU Team.

---

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: Detached Additional Dwelling Unit Building Permit Process (PED24036)  
(City Wide) - Page 4 of 6**

---

(ii) *Providing access to a library of permit-ready design templates for SDU-Ds;*

The Ontario Building Code (OBC) is very specific on who can prepare a design for a building permit. Basically, the OBC requires a designer to be qualified, and registered, with the Ministry of Municipal Affairs and Housing or to be an Architect or Professional Engineer. These designers are also required to have insurance. Additionally, under provincial legislation building officials responsible for administering and enforcing the OBC cannot be registered as designers. From a risk management point of view the City may be putting itself in a liability situation by appearing to be referring homeowners to one specific designer over another. Concerns were also raised by Procurement on advertising a specific designer on the City's website without following Procurement policy.

While some jurisdictions (mainly in the United States) do provide access to pre-approved plans, most of them require the owner to contact the designer to purchase the drawings required to apply for a permit. It should also be noted that permit regulations in the United States differ from those in Ontario.

One innovative approach in Canada that appears to address this issue is the "Standardized Housing Design Project" that the Ministry of Housing in British Columbia is currently working on. Basically, the British Columbia government has decided to develop standardized designs for small-scale development, including laneway homes (detached additional dwelling unit). They have done this to address the housing crisis in British Columbia and to ensure consistency across municipalities in British Columbia. They are currently in the process of engaging a consultant to provide expert advice. Once the consultant is hired the Ministry of Housing would select a designer to create as many as 10 designs (including 4 for detached ADUs) based on design parameters determined by the consultant team. These designs would be compliant with the British Columbia Building Code and would then be made available to local municipalities in British Columbia. If Council feels this is something that should also be made available in Ontario, Council could direct staff to draft a letter to the Ministry of Municipal Affairs and Housing requesting that a similar project be implemented in Ontario and that the approved designs for Detached Additional Dwelling Units be made available to all Municipalities. Since the Ontario Building Code is applicable to all of Ontario this would ensure a consistent approach for all municipalities.

Although staff cannot support providing permit-ready designs to homeowners at this time, the Building Division will allow designers to have their detached ADU plans reviewed and pre-approved for Building Code compliance prior to making a formal building permit application. These pre-approved "stock" plans could then be used multiple times, provided there are no changes to the floor plan, when applying for a building permit. This would result in an expedited issuance of the building permit since the drawings would already have been reviewed for OBC compliance and staff would

**SUBJECT: Detached Additional Dwelling Unit Building Permit Process (PED24036)  
(City Wide) - Page 5 of 6**

---

only have to ensure compliance with the Zoning By-law and any other applicable law. Designers who get their plans for detached additional dwelling units pre-approved as “stock” plans by our Division could then advertise this fact to the general public on their websites.

- (iii) *Developing a one-stop SDU-D website that provides a comprehensive inventory of SDU-D information, guidance, resources and summarizes SDU-D regulations and permitting steps;*

A website has been developed for Additional Dwelling units (both internal and detached). The site has just gone live and can be found at the following link:

[www.hamilton.ca/AdditionalDwellingUnits](http://www.hamilton.ca/AdditionalDwellingUnits)

This website will provide information on ADUs and how to apply for a building permit.

Additionally, staff are currently working with the GIS team to have the Zoning requirements for ADUs (internal and detached) available by just clicking on a property. Staff have also developed brochures for the general public (see Appendix “A” to Report PED24036 and Appendix “B” to Report PED24036). These brochures are updated on a regular basis.

- (iv) *Facilitating connections among prospective SDU-D owners and residents and relevant experts in the design and construction community;*

Staff reached out to the Hamilton ADU Facebook Group to advise them of our Division’s new ADU team and that our Division’s ADU website is up and running. This Group has included this information on their site. This website has been used by owners and residents to communicate with each other to obtain information on experts in the design and construction of detached ADUs. Staff will continue to work with this group to ensure ADU information is made available to as many people as possible.

- (v) *Partnering with nonprofits, public agencies, and private organizations to develop models for affordable SDU-D construction, using best practices gleaned from other jurisdictions.*

The Building Division is constantly in touch with other Municipalities as it relates to the Ontario Building Code, including additional dwelling units. Staff are currently involved in a project with other Divisions to coordinate our various Housing initiatives in the City of Hamilton. Staff are also working with Finance and the Housing Secretariate’s office to highlight funding/grant programs.

**SUBJECT: Detached Additional Dwelling Unit Building Permit Process (PED24036)  
(City Wide) - Page 6 of 6**

---

Our Division is always willing to listen to homeowners, designers, builders, etc. and provide feedback on their issues/concerns.

Given this information, it is recommended that this item be removed from the Outstanding Business List.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24036 - Additional Dwelling Units - Internal – Brochure

Appendix "B" to Report PED24036 - Additional Dwelling Units - Detached – Brochure

JMC:II





Hamilton

A photograph of a modern interior space, likely a living area or kitchen, with a teal overlay. The space features light-colored walls, a white door with a window, and a kitchen area with dark wood cabinets and a countertop. The floor is covered in a teal material, possibly a rug or carpet. The text "ADDITIONAL DWELLING UNITS INTERNAL" is overlaid in large white letters on the teal background.

# ADDITIONAL DWELLING UNITS INTERNAL

## INTRODUCTION

In May 2021, amendments were made to the City's Zoning By-laws to permit Secondary Dwelling Units (also known as Additional Dwelling Units). An Additional Dwelling Unit (ADU) is a dwelling unit that is accessory to the main dwelling.

## THERE ARE TWO TYPES OF ADDITIONAL DWELLING UNITS

- One that is internal to the main dwelling, such as a basement apartment or an addition to the main dwelling; and
- A Detached Additional Dwelling Unit (ADU-D) which is a self-contained dwelling unit that is separate from the main dwelling on a lot. Detached Additional Dwelling Units may be newly constructed in the rear and/or side yard of a lot, or may be created from the conversion of an existing accessory building such as a detached garage.

**This brochure provides general information related to an internal Additional Dwelling Unit that may include up to two dwelling units in the principal building.** See the Additional Dwelling Units - Detached brochure for general information related to a detached Additional Dwelling Unit.



## BUILDING PERMITS

**It is the owner's responsibility to ensure that a Building Permit is obtained when required, prior to commencing construction or demolition.**

A Building Permit gives you the legal authorization to start construction in accordance with approved drawings and specifications.

Building Permits are issued by the Building Division and are reviewed for compliance with the Ontario Building Code, the appropriate municipal Zoning By-law and other applicable provincial and municipal regulations. Building Permits are necessary to ensure that fire, health, construction and structural safety standards are met.

**Contact the Building Division at the planning stages of your project to determine whether a Building Permit is required and what specific zoning requirements apply to your property.**

## CAN I DO MY OWN DRAWINGS?

As the owner, you may design your own project and produce your own drawings. Libraries and home improvement stores carry books with standard details that can be referenced when creating drawings. Discuss your project with material suppliers to establish costs, sizes and spans. Sample drawings can also be obtained from the Building Division to illustrate the quality of submission necessary for a permit application.

All drawings must be to scale and printed in ink. Original drawings in pencil are not acceptable, but photocopies of penciled drawings may be sufficient. Plans must be fully dimensioned in either metric or imperial units, but not a combination of both. Two (2) copies are required of each drawing.

Delays in the issuance of your permit can arise if

your drawing and specification submissions are not complete or do not conform to the Ontario Building Code and/or Zoning By-law.

**If you are not familiar with various government regulations, by-laws and Ontario Building Code requirements, you may wish to hire a qualified designer.**

**Note:** A designer is anyone who is responsible for the design, which may include preparing the drawings for submission. If the design is not being completed by the owner, a designer registered and/or qualified under Division C, Part 3, Section 3.2 of the Ontario Building Code is required for an additional dwelling unit.

## HOW DO I KNOW IF A DESIGNER IS QUALIFIED?

Qualified designers will have a Building Code Identification Number (BCIN). Qualifications may be verified on the Ministry of Municipal Affairs and Housing website at [mah.gov.on.ca](http://mah.gov.on.ca). Contact the Ministry at 416.585.6666 if you have any further questions regarding designers or qualifications.

## HOW DO I APPLY FOR A BUILDING PERMIT?

Building Permits may be applied for by the property owner, or by an agent on behalf of the owner, such as the contractor or designer. Forms, along with fee schedules, are available at the Building Division office and [hamilton.ca/building](http://hamilton.ca/building).

## BUILDING CODE REQUIREMENTS

The Ontario Building Code sets out minimum construction standards for how to build an additional dwelling unit. These minimum standards include the following considerations:

### Age of the House

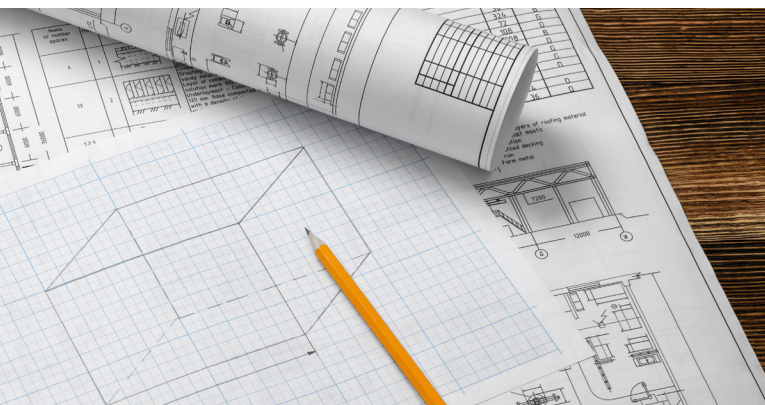
Different Building Code rules apply depending on the age of the house.

### Water Service

Depending on the number of fixture units serving the buildings on the property, the water service line on the private and/or public side may need to be increased.

### Location of the Additional Dwelling Unit

An additional dwelling unit can be built in any part of the house. It can be all on one floor, or on multiple levels. Most additional dwelling units are built in the basement or attic. Building Code



rules can vary depending on where the additional dwelling unit is located in the house.

### Room Sizes and Floor Area

The Building Code sets out minimum room sizes in additional dwelling units. Room sizes vary depending on whether rooms are separated by walls or the unit is open concept.

### Ceiling Heights

Minimum ceiling heights in all rooms. Ceiling height requirements for additional dwelling units vary in different parts of the house, such as in the basement or attic.

### Windows

Windows are required in an additional dwelling unit. Window sizes are also based on what type of room they are in.

### Exits

The additional dwelling unit needs safe exits. The requirements for exits depend on where in the house the additional dwelling unit is located.

### Plumbing

At minimum the additional dwelling unit will need the following plumbing requirements:

- hot and cold water supply
- sink
- bathtub or shower
- toilet
- kitchen sink
- access to laundry facilities, which may be in a shared laundry room or a separate laundry area in the additional dwelling unit.

### Smoke Alarms

The additional dwelling unit will need smoke alarms that meet the CAN/ULC S531 performance standard. A label on the alarm will indicate whether it meets this standard. Smoke alarms must also have a flashing light when activated.

### Carbon Monoxide Detectors

In addition to smoke alarms, carbon monoxide detectors are required in a home with a furnace that uses natural gas, propane, or other similar fuels. They are also required in homes with an attached garage. Carbon monoxide detectors can be either electrically powered or battery operated.

### Heating and Ventilation

The Ontario Building Code allows a house with an additional dwelling unit to have a single furnace and common system of air ducts. For a special type of smoke detector in the main supply or return air ducts must be installed. When activated, this device turns off the fuel supply and electrical power to the furnace, causing it to shut down and preventing the spread of smoke from one unit to the other.

### Fire Separations

Fire separations are required between the internal additional dwelling unit and the rest of the house. Fire separations act as a physical barrier to slow the spread of fire from one part of the house to the other.

### Septic Systems

Adding an additional dwelling unit to a house served by a septic system is permitted as long as the septic system has the capacity to handle the increase in sewage.

## BUILDING BEYOND THE CODE

In some cases, you may wish to build beyond the minimum requirements of the Building Code. Building beyond the Building Code provides homeowners many advantages, including greater occupant comfort and amenities that can make your additional dwelling unit a nicer place to live.

## WHAT OTHER INFORMATION SHOULD I BE AWARE OF?

### Funding and Incentives

Coming soon (Spring 2024).

### Other Fees

An additional dwelling unit may be subject to Parkland and Development Charges. Contact [building@hamilton.ca](mailto:building@hamilton.ca) for more information.

### Building Permit Application Review, Issuance and Inspection

During the review process, you may be contacted by a plan reviewer if there are any outstanding requirements. All outstanding information must be submitted prior to issuance of the permit.

Please read the permit documents thoroughly before commencing construction. Construction of the additional dwelling unit must be in

accordance with the approved plans and documents issued with your permit.

Several inspections are required during construction to ensure all the work is done as per the approved plans. Before construction begins, contact the Building Inspector to find out which inspections are required.

It is the property owner's responsibility to ensure the Building Division is contacted for the required inspections. Either the owner or the contractor can request an inspection by calling 905.546.2424 ext. 7777, Monday to Friday, between the hours of

8:30 a.m. to 4:30 p.m. A request for inspection must be made at least 48 hours before work proceeds from one inspection stage to the next.

## HOW DO I KNOW IF A CONTRACTOR IS LICENSED TO WORK IN HAMILTON?

Call 905.546.2782 and press "3" for licensing and staff will be able to tell you if a contractor is licensed to work in Hamilton. More information can be found online at [hamilton.ca/tradelicence](http://hamilton.ca/tradelicence).

IMPORTANT CONTACTS:	
Call Before You Dig (24 hour service)	1.800.400.2255
Committee of Adjustment (Minor Variances from Zoning By-law)	905.546.4221
Electrical Safety Authority (Electrical permits/inspections)	1.877.372.7233
Encroachments/Alley information	905.546.2424 ext. 4298
Historical Designations/Information	905.546.2424 ext. 1202 or ext. 1220
Ministry of Transportation	416.235.4081 or 416.235.4387
Hamilton Region Conservation Authority	905.525.2181
Halton Region Conservation Authority	905.336.1158
Niagara Peninsula Conservation Authority	905.788.3135
Niagara Escarpment Commission (NEC)	905.877.5191
Grand River Conservation Authority	519.621.2763
Ministry of Municipal Affairs and Housing	<a href="http://ontario.ca/page/add-second-unit-your-house">ontario.ca/page/add-second-unit-your-house</a> <a href="http://ontario.ca/page/building-laneway-house">ontario.ca/page/building-laneway-house</a>

## DO YOU REQUIRE MORE INFORMATION?



### IN PERSON

City Hall  
71 Main Street West,  
3rd Floor  
Hamilton, Ontario  
L8P 4Y5



### PHONE

Building permits:  
905-546-2424 ext. 5117  
General zoning:  
905-546-2424 ext. 2719  
MONDAY - FRIDAY  
8:30 am - 4:30 pm



### E-MAIL

Building permit questions:  
aduteam@hamilton.ca or  
building@hamilton.ca  
General zoning questions:  
zoninginquiry@hamilton.ca



### WEB

[www.hamilton.ca/building](http://www.hamilton.ca/building)  
[www.hamilton.ca/AdditionalDwellingUnits](http://www.hamilton.ca/AdditionalDwellingUnits)

Information collected in the building permit application process, including personal information, is collected under the authority of the *Building Code Act*, 1992, S.O. 1992, Chap. 23 and is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.





# ADDITIONAL DWELLING UNITS DETACHED

## INTRODUCTION

In May 2021, amendments were made to the City's Zoning By-laws to permit Secondary Dwelling Units (also known as Additional Dwelling Units). An Additional Dwelling Unit (ADU) is a dwelling unit that is accessory to the main dwelling.

## THERE ARE TWO TYPES OF ADDITIONAL DWELLING UNITS

- One that is internal to the main dwelling, such as a basement apartment or an addition to the main dwelling; and
- A Detached Additional Dwelling Unit (ADU-D) which is a self-contained dwelling unit that is separate from the main dwelling on a lot. Detached Additional Dwelling Units may be newly constructed in the rear and/or side yard of a lot, or may be created from the conversion of an existing accessory building such as a detached garage.

**This brochure provides general information related to an detached Additional Dwelling Unit.** See the "Additional Dwelling Units Internal" brochure for general information related to an internal Additional Dwelling Unit.



## BUILDING PERMITS

**It is the owner's responsibility to ensure that a Building Permit is obtained when required, prior to commencing construction or demolition.**

A Building Permit gives you the legal authorization to start construction in accordance with approved drawings and specifications.

Building Permits are issued by the Building Division and are reviewed for compliance with the Ontario Building Code, the appropriate municipal Zoning By-law and other applicable provincial and municipal regulations. Building Permits are necessary to ensure that fire, health, construction and structural safety standards are met.

**Contact the Building Division at the planning stages of your project to determine whether a Building Permit is required and what specific zoning requirements apply to your property.**

## CAN I DO MY OWN DRAWINGS?

As the owner, you may design your own project and produce your own drawings. Libraries and home improvement stores carry books with standard details that can be referenced when creating drawings. Discuss your project with material suppliers to establish costs, sizes and spans. Sample drawings can also be obtained from the Building Division to illustrate the quality of submission necessary for a permit application.

All drawings must be to scale and printed in ink. Original drawings in pencil are not acceptable, but photocopies of penciled drawings may be sufficient. Plans must be fully dimensioned in either metric or imperial units, but not a combination of both. Two (2) copies are required of each drawing.

Delays in the issuance of your permit can arise if

your drawing and specification submissions are not complete or do not conform to the Ontario Building Code and/or Zoning By-law.

**If you are not familiar with various government regulations, by-laws and Ontario Building Code requirements, you may wish to hire a qualified designer.**

**Note:** A designer is anyone who is responsible for the design, which may include preparing the drawings for submission. If the design is not being completed by the owner, a designer registered and/or qualified under Division C, Part 3, Section 3.2 of the Ontario Building Code is required for an additional dwelling unit.

## HOW DO I KNOW IF A DESIGNER IS QUALIFIED?

Qualified designers will have a Building Code Identification Number (BCIN). Qualifications may be verified on the Ministry of Municipal Affairs and Housing website at [mah.gov.on.ca](http://mah.gov.on.ca). Contact the Ministry at 416.585.6666 if you have any further questions regarding designers or qualifications.

## HOW DO I APPLY FOR A BUILDING PERMIT?

Building Permits may be applied for by the property owner, or by an agent on behalf of the owner, such as the contractor or designer. Forms, along with fee schedules, are available at the Building Division office and [hamilton.ca/building](http://hamilton.ca/building).

## BUILDING CODE REQUIREMENTS

The Ontario Building Code sets out minimum construction standards for how to build an additional dwelling unit. These minimum standards include the following considerations:

### Water Service

Depending on the number of fixture units serving the buildings on the property, the water service line on the private and/or public side may need to be increased.

### Fire Department Access

An unobstructed path of travel with a minimum 1.0 metre width and minimum 2.1 metre vertical clearance is required from the public street to the entry of the detached additional dwelling unit.

### Footings and Foundations

The Building Code has detailed requirements for footings and foundations.



**Room Sizes and Floor Area**

The Building Code sets out minimum room sizes in additional dwelling units. Room sizes vary depending on whether rooms are separated by walls or the unit is open concept.

**Ceiling Heights**

Minimum ceiling heights are required in an additional dwelling unit.

**Windows**

Windows are required in the additional dwelling unit. Window sizes are also based on what type of room they are in. The Building Code regulates the maximum amount of windows permitted in a wall in relation to the distance to the property lines and existing buildings.

**Exits**

The detached additional dwelling unit requires an exit door that is direct to the exterior and part of the required fire department access.

**Plumbing**

At minimum the additional dwelling unit will need the following plumbing requirements:

- hot and cold water supply
- sink
- bathtub or shower
- toilet
- kitchen sink
- access to laundry facilities.

**Smoke Alarms**

The additional dwelling unit will need smoke alarms that meet the CAN/ULC S531 performance standard. A label on the alarm will indicate whether it meets this standard. Smoke alarms must be connected to an electrical circuit, interconnected with all other smoke alarms in the dwelling unit, and have a flashing light when activated.

**Carbon Monoxide Detectors**

In addition to smoke alarms, carbon monoxide detectors are required if the additional dwelling unit has a furnace that uses natural gas, propane, or other similar fuels. They are also required if the detached additional dwelling incorporates a garage. Carbon monoxide detectors must be connected to an electrical circuit.

**Heating and Ventilation**

The additional dwelling unit is required to have heating and ventilation that conforms with the Building Code.

**HOME CONSTRUCTION REGULATORY AUTHORITY**

In Ontario, all builders of new homes must be registered with the Home Construction Regulatory Authority (HCRA). HCRA maintains an Ontario Builder Directory of all new home builders. If you are considering building a new additional dwelling unit, you are encouraged to check the Ontario Builder Directory to ensure your prospective builder is registered with HCRA. Visit [hcrantario.ca](http://hcrantario.ca) for more information.

**WHAT OTHER INFORMATION SHOULD I BE AWARE OF?**

**Municipal Addressing**

A new municipal address is required for the proposed detached additional dwelling unit. Contact [addressing@hamilton.ca](mailto:addressing@hamilton.ca) for more information.

**Funding and Incentives**

Coming soon (Spring 2024).

**Other Fees**

An additional dwelling unit may be subject to Parkland and Development Charges. Contact [building@hamilton.ca](mailto:building@hamilton.ca) for more information.

**Building Permit Application Review, Issuance and Inspection**

During the review process, you may be contacted by a plan reviewer if there are any outstanding requirements. All outstanding information must be submitted prior to issuance of the permit.



Please read the permit documents thoroughly before commencing construction. Construction of the additional dwelling unit must be in accordance with the approved plans and documents issued with your permit.

Several inspections are required during construction to ensure all the work is done as per the approved plans. Before construction begins, contact the Building Inspector to find out which inspections are required.

It is the property owner's responsibility to ensure the Building Division is contacted for the required inspections. Either the owner or the contractor can request an inspection by calling 905.546.2424

ext. 7777, Monday to Friday, between the hours of 8:30 a.m. to 4:30 p.m. A request for inspection must be made at least 48 hours before work proceeds from one inspection stage to the next.

## HOW DO I KNOW IF A CONTRACTOR IS LICENSED TO WORK IN HAMILTON?

Call 905.546.2782 and press "3" for licensing and staff will be able to tell you if a contractor is licensed to work in Hamilton. More information can be found online at [hamilton.ca/tradelicence](http://hamilton.ca/tradelicence).

IMPORTANT CONTACTS:	
Call Before You Dig (24 hour service)	1.800.400.2255
Committee of Adjustment (Minor Variances from Zoning By-law)	905.546.4221
Electrical Safety Authority (Electrical permits/inspections)	1.877.372.7233
Encroachments/Alley information	905.546.2424 ext. 4298
Historical Designations/Information	905.546.2424 ext. 1202 or ext. 1220
Ministry of Transportation	416.235.4081 or 416.235.4387
Hamilton Region Conservation Authority	905.525.2181
Halton Region Conservation Authority	905.336.1158
Niagara Peninsula Conservation Authority	905.788.3135
Niagara Escarpment Commission (NEC)	905.877.5191
Grand River Conservation Authority	519.621.2763
Ministry of Municipal Affairs and Housing	<a href="http://ontario.ca/page/add-second-unit-your-house">ontario.ca/page/add-second-unit-your-house</a> <a href="http://ontario.ca/page/building-laneway-house">ontario.ca/page/building-laneway-house</a>

## DO YOU REQUIRE MORE INFORMATION?



### IN PERSON

City Hall  
71 Main Street West,  
3rd Floor  
Hamilton, Ontario  
L8P 4Y5



### PHONE

Building permits:  
905-546-2424 ext. 5117

General zoning:  
905-546-2424 ext. 2719

MONDAY - FRIDAY  
8:30 am - 4:30 pm



### E-MAIL

Building permit questions:  
[aduteam@hamilton.ca](mailto:aduteam@hamilton.ca) or  
[building@hamilton.ca](mailto:building@hamilton.ca)

General zoning questions:  
[zoninginquiry@hamilton.ca](mailto:zoninginquiry@hamilton.ca)



### WEB

[www.hamilton.ca/building](http://www.hamilton.ca/building)

[www.hamilton.ca/AdditionalDwellingUnits](http://www.hamilton.ca/AdditionalDwellingUnits)

Information collected in the building permit application process, including personal information, is collected under the authority of the *Building Code Act*, 1992, S.O. 1992, Chap. 23 and is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.





Hamilton

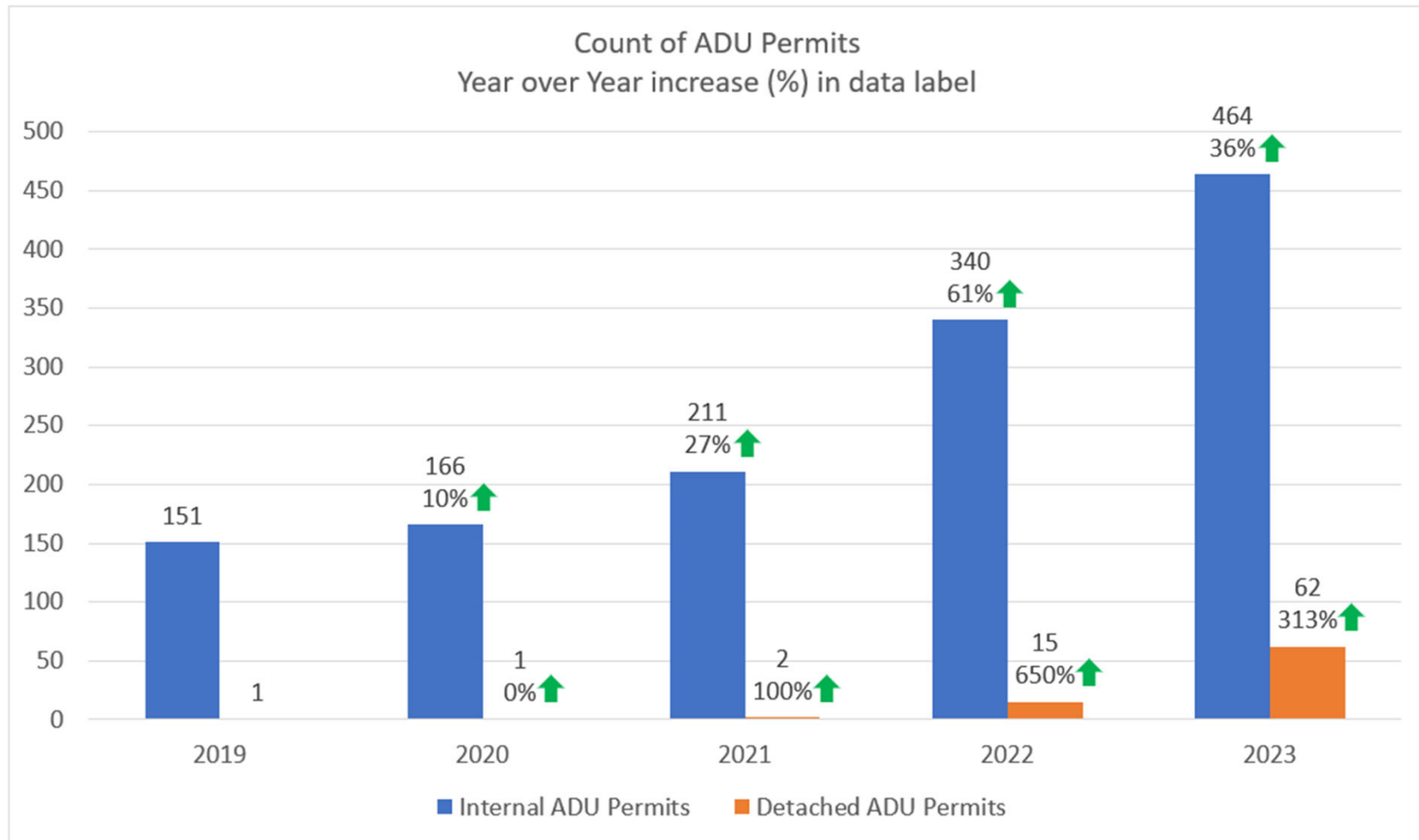
**DETACHED ADDITIONAL DWELLING UNIT  
PERMIT PROCESS**

**PED24036**

April 16, 2024



# PED24036



## PED24036

<b>2019-2023 ADU Permits by Ward</b>			
Ward	Internal ADU	Detached ADU	Total
1	66	11	77
2	37	7	44
3	159	5	164
4	93	11	104
5	67	3	70
6	176	6	182
7	200	15	215
8	200	10	210
9	77		77
10	36	4	40
11	23	1	24
12	48		48
13	12	2	14
14	76	6	82
15	62		62
<b>Total</b>	<b>1332</b>	<b>81</b>	<b>1413</b>

## PED24036

- (i) *Expediting the permitting and approvals process for SDU-Ds through a “one window” dedicated approvals team;*
- On June 12, 2023, the Building Division created a new ADU (Additional Dwelling Unit) team that aids those applicants.
  - This specialized team handles all ADU (internal and detached) inquiries and building permit applications.
  - A dedicated phone extension (905-546-2424 ext. 5117) and email address, [aduteam@hamilton.ca](mailto:aduteam@hamilton.ca), have also been created so that customers can inquire directly with the ADU Team.

# PED24036

## *(ii) Providing access to a library of permit-ready design templates for SDU-Ds;*

- The Ontario Building Code (OBC) is very specific on who can prepare a design for a building permit.
- The OBC requires a designer to be qualified, and registered, with the Ministry of Municipal Affairs and Housing or to be an Architect or Professional Engineer. These designers are also required to have insurance.
- Additionally, under provincial legislation the Building Division cannot be both the approver and designer since this would create a conflict of interest.
- From a risk management point of view the City may be putting itself in a liability situation by appearing to be referring homeowners to one specific designer over another. Concerns were also raised by Procurement on advertising a specific designer on the City's website without following Procurement policy.

## PED24036

*(ii) Providing access to a library of permit-ready design templates for SDU-Ds (continued);*

- While some jurisdictions (mainly in the United States) do provide access to pre-approved plans, most of them require the owner to contact the designer to purchase the drawings required to apply for a permit.
- The time frames for the review of a detached ADU permit application varies from state to state and from county to city. For example, in California they have legislation that requires an application for a detached ADU to be reviewed within 60 days of receiving a completed application. While in Ontario the Building Code requires this type of Building Permit application to be reviewed within 10 working days.
- Additionally, permit regulations, and other applicable approvals, in the United States differ from those in Ontario.

## PED24036

(ii) *Providing access to a library of permit-ready design templates for SDU-Ds (continued);*

- One innovative approach in Canada that appears to address this issue is the “Standardized Housing Design Project” that the Ministry of Housing in British Columbia is currently working on.
- This is being done to address the housing crisis in British Columbia and to ensure consistency across municipalities in British Columbia.
- They are currently in the process of engaging a consultant to provide expert advice. Once the consultant is hired the Ministry of Housing would select a designer to create as many as 10 designs (including 4 for detached ADUs) based on design parameters determined by the consultant team. These designs would be compliant with the British Columbia Building Code and would then be made available to local municipalities in British Columbia.

## PED24036

(ii) *Providing access to a library of permit-ready design templates for SDU-Ds (continued);*

- If Council feels this British Columbia initiative is something that should also be made available in Ontario, Council could direct staff to draft a letter to the Ministry of Municipal Affairs and Housing requesting that they implement a similar project in Ontario and that the approved designs for Detached Additional Dwelling Units be made available to all Municipalities.
- Although staff cannot support providing permit-ready designs to homeowners at this time, the Building Division will allow designers to have their detached ADU plans reviewed and pre-approved for Building Code compliance prior to making a formal building permit application. These pre-approved “stock” plans could then be used multiple times, provided there are no changes to the floor plan, when applying for a building permit.
- This would result in an expedited issuance of the building permit since the drawings would already have been reviewed for OBC compliance.

## PED24036

- (ii) *Providing access to a library of permit-ready design templates for SDU-Ds (continued);*

### **Update on Standardized Housing Designs**

- On April 10, 2024, the Ontario Government in their press release on their “*Cutting Red Tape to Build More Homes, Act*” made the following announcement on standardized housing designs:
  - “Ontario is proposing to create a regulation-making authority to exempt standardized housing designs (once created) from certain sections of the Planning Act (e.g. zoning) and from planning provisions under the City of Toronto Act, 2006. If passed, this would allow the province to make regulations that would speed up approvals and allow Ontario to potentially partner with British Columbia and the federal government on a catalog of housing designs that could also be delivered even faster using modular construction.”



## PED24036

- (iii) *Developing a one-stop SDU-D website that provides a comprehensive inventory of SDU-D information, guidance, resources and summarizes SDU-D regulations and permitting steps;*
- A website has been developed for Additional Dwelling units (both internal and detached) [www.hamilton.ca/AdditionalDwellingUnits](http://www.hamilton.ca/AdditionalDwellingUnits)
  - This website will provide information on ADUs and how to apply for a building permit.
  - Additionally, staff are currently working with the GIS team to have the Zoning requirements for ADUs (internal and detached) available by just clicking on a property.
  - Brochures have been developed for the general public (see Appendix “A” to Report PED24036 and Appendix “B” to Report PED24036).

# PED24036

Additional Dwelling Units (ADU) x

https://www.hamilton.ca/build-invest-grow/construction-renovation/residential-building-renovati

< Construction & Renovation

## Residential Building & Renovation

- Applicable Law for Building Permit Applications
- Apply for a Building Permit Online with ePLANS
- Building Permit Application Requirements
- Building Permit Fees
- Building Permit Review and Approval
- Building Inspections
- Dust Mitigation During Construction & Demolition
- Hiring a Designer for Building Permit Drawings
- Property Record Search
- Residential Construction Requirements for

In May 2021, amendments were made to the City's Zoning By-laws to permit Additional Dwelling Units (ADUs) in Hamilton.

We have a dedicated Additional Dwelling Unit Team to review and issue ADU building permits for existing single family dwellings including up to two internal units & one detached unit.

Building Engineering will continue to review multi-residential permits.

### WHAT IS AN ADDITIONAL DWELLING UNIT?

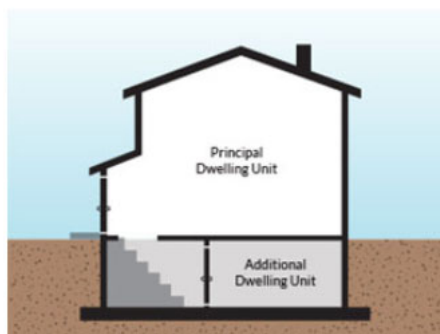
An Additional Dwelling Unit (ADU) is type of residential unit. It is a separate self-contained unit located on the property of a primary dwelling. The unit may be created within, added to, or detached from the primary dwelling. It is also referred to as a Secondary Dwelling Unit

# PED24036

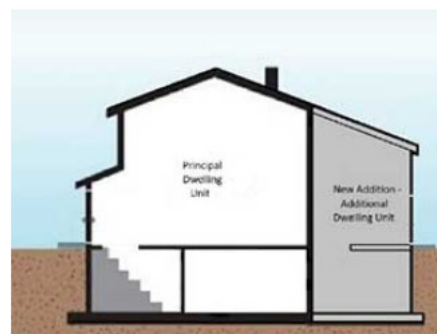
## What are some examples of an Additional Dwelling Unit?

### Internal ADU

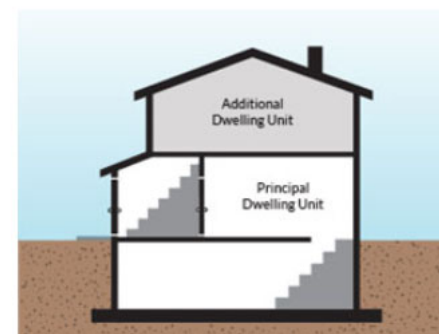
An internal Additional Dwelling Unit (ADU) is a conversion of interior space within an existing dwelling or through a new addition to an existing dwelling to provide one (1) additional dwelling unit to a maximum of four (4) dwelling units in some zones. A new detached dwelling can also be purpose-built to include an internal additional dwelling unit.



Example 1: A basement in an existing dwelling to be converted into a separate residential unit (ADU).



Example 2: A new addition constructed to an existing dwelling for the purpose of a separate residential unit (ADU).



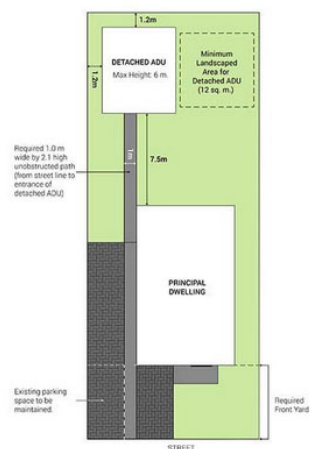
Example 3: A new house including a layout for a separate self-contained unit within the same building.

# PED24036

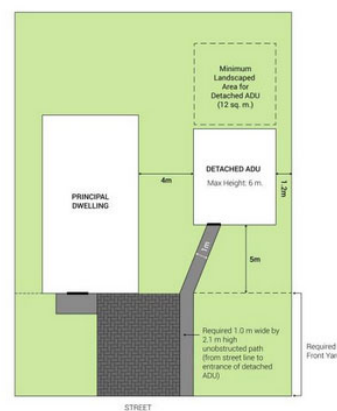
## How do I know if a Detached Additional Dwelling Unit is suitable for a property?

A Detached ADU can be located in the rear yard or interior side yard of a property. These diagrams illustrate possible layouts of a Detached ADU on a lot, based on the requirements of the Zoning By-law. Refer to the [Zoning By-law](#) for the full set of regulations that apply to Detached ADUs.

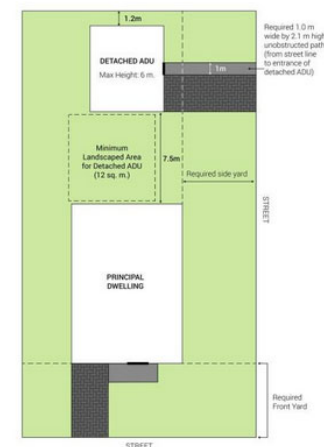
**D-ADU Interior Lot - Rear (File, 21.35 KB)**



**D-ADU Interior Lot - Side (File, 76.38 KB)**



**D-ADU - Corner Lot (File, 75 KB)**



**Note:** All lots may not be able to accommodate a Detached ADU due to Ontario Building Code and Zoning By-Law requirements. Refer to the Secondary Dwelling Unit By-Law for the complete requirements of Detached - Additional Dwelling Units.

## PED24036

*(iv) Facilitating connections among prospective SDU-D owners and residents and relevant experts in the design and construction community;*

- Staff have reached out to the Hamilton ADU Facebook Group to advise them of our Division's new ADU team and that the our Division's ADU website is up and running.
- This Facebook Group has included the City's information on their site.
- This website has been used by owners and residents to communicate with each other to obtain information on experts in the design and construction of detached ADUs.
- Staff will continue to work with this group to ensure ADU information is made available to as many people as possible.

## PED24036

- (v) *Partnering with nonprofits, public agencies, and private organizations to develop models for affordable SDU-D construction, using best practices gleaned from other jurisdictions.*
- The Building Division is constantly in touch with other Municipalities as it relates to the Ontario Building Code, including additional dwelling units.
  - Staff are currently involved in a project with other Divisions to coordinate our various Housing initiatives in the City of Hamilton. Staff are also working with Finance and the Housing Secretariate's office to highlight funding/grant programs.
  - Staff are part of the Federal Government, Housing Design Catalogue – Municipal Partner Roundtable.
  - Our Division is always willing to listen to homeowners, designers, builders, etc. and provide feedback on their issues/concerns.

PED24036

# Questions?





Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>PREPARED BY:</b>	Alaina Baldassarra (905) 546-2424 Ext. 7421
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

In accordance with Subsections 22(7) and 34(11) of the *Planning Act*, an Official Plan Amendment application and a Zoning By-law Amendment application may be appealed to the Ontario Land Tribunal after 120 days if Council has not made a decision on the applications.

A motion to direct staff to advise the Planning Committee on matters relating to appeals of Council's non-decision, pursuant to the *Planning Act*, was passed by City Council on May 18, 2010. This information Report has been prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the Ontario Land Tribunal.

The following information is provided for Planning Committee's information with regards to Urban Hamilton Official Plan Amendment application UHOPA-22-005 and Zoning By-law Amendment application ZAC-22-012, which have been appealed for non-decision.

---

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: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1) - Page 2 of 5**

---

## **INFORMATION**

The subject property is municipally known as 200 Market Street and 55 Queen Street North (refer to Appendix “A” attached to Report PED24055). The subject property is approximately 0.79 hectares in area and is located on the west side of Queen Street North, on the south side of Napier Street and on the north side of Market Street. The subject lands have frontage on three public streets and are used as a surface parking lot.

The Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications were originally submitted by GSP Group Inc. c/o Brenda Khes on behalf of Hamilton Queen and Market Inc. on December 21, 2021, and deemed complete on January 19, 2022. The initial proposal was for a multiple dwelling with four towers (two 15 storeys and two 27 storeys) on a three storey podium with an outdoor rooftop amenity area. The proposed development included two levels of underground parking and three levels of podium parking for a total of 161 resident parking spaces, 152 visitor parking spaces and 56 commercial parking spaces.

A.J. Clarke and Associates Ltd. c/o Ryan Ferrari on behalf of Hamilton Queen and Market Inc., submitted revised Urban Hamilton Official Plan Amendment (UHOPA-22-005) and Zoning By-law Amendment (ZAC-22-012) applications on December 22, 2023, to permit a mixed-use multiple dwelling with a six to seven storey podium and two towers with a height of 41 and 39 storeys.

The appeal of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications, filed by WeirFoulds LLP c/o Denise Baker, counsel for Hamilton Queen and Market Inc., was received by the City Clerk’s Office on January 19, 2024, 759 days after the receipt of the initial applications and 28 days after the December 22, 2023, submission, included as Appendix “C” attached to Report PED24055.

## **PROPOSED DEVELOPMENT**

The revised proposal is for a mixed-use multiple dwelling with a six to seven storey podium and two towers with a height of 41 to 39 storeys, with 1,072 residential dwelling units, 1,012 square metres of commercial space, 324 parking spaces and 549 long term bicycle parking spaces. The proposed driveway entrance on Napier Street will provide access to the surface parking area and drop-off facilities, underground parking garage, loading area and waste facilities. Market Street will provide a secondary access for the

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1) - Page 3 of 5**

---

30 parking spaces proposed within the podium. The development also includes lay-by parking proposed on Napier Street, Market Street and Queen Street North.

### **Urban Hamilton Official Plan Amendment Application**

The subject property is identified as “Neighbourhoods” on Schedule E – Urban Structure and is designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan. The proposed development is considered “High Density Residential” within the “Neighbourhoods” designation. The application was received and deemed complete prior to Ministerial approval of Official Plan Amendment No. 167, however, as per *Bill 150*, any decision must conform to the Official Plan in effect on November 4, 2022. As a result, the proposed development will require a site specific modification to Volume 1 of the Urban Hamilton Official Plan to permit a building height taller than the Niagara Escarpment.

The subject lands are located within the Strathcona Secondary Plan and are designated “High Density Residential” on Map B.6.6-1 Land Use Plan. Queen Street North is identified as a “Minor Arterial Road” and includes an “Existing Signed Bike Route” on Napier Street on Map B.6.6-2: Transportation Classification Plan.

The current “High Density Residential” designation permits a maximum building height of 10 storeys. The application is requesting a site specific modification to increase the maximum building height to 39 and 41 storeys. As per the designation, a maximum net residential density range shall be greater than 100 units per net hectare and not greater than 300 units per net hectare. The application is requesting a site specific modification to increase the net residential density to 1,375 units per hectare.

### **Zoning By-law Amendment Application**

The subject lands are currently zoned “J/S-1208” (Light and Limited Heavy Industry, Etc.) District, Modified, and “E-3/S-1208” and “E-3/2-1208a” (High Density Multiple Dwellings) District, Modified, as shown on Appendix “A” attached to Report PED24055. Zoning By-law Amendment application ZAC-22-012 is proposing to change the zoning to a site specific Downtown Mixed Use – Pedestrian Focus (D2) Zone under Hamilton Zoning By-law No. 05-200.

A number of specific modifications are required to implement the proposed development, as shown on the Concept Plan in Appendix “B” attached to Report PED24055, including:

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1) - Page 4 of 5**

---

- To identify a specified street to be deemed the Front Lot Line whereas for a corner lot the shorter lot line would be deemed the Front Lot Line;
- To reduce the minimum amount of required parking to 324 parking spaces whereas a minimum of 460 parking spaces are required;
- To require a minimum setback of 8.0 metres for any portion of a building 13.4 metres or less;
- To permit residential on the ground floor of Napier Street and Market Street whereas the By-law does not permit residential units on the ground floor except for the purposes of access, accessory office, and utility areas;
- To add a special figure to the Zoning By-law to identify the maximum building height and minimum setbacks for the proposed building; and,
- To require a minimum number of three bedroom units whereas there is no minimum requirement for three bedroom units.

### **Strathcona Neighbourhood Plan**

The subject property is identified as “Medium Density Apartments” and “High Density Apartments” in the Strathcona Neighbourhood Plan. The proposed development would require an amendment to the Neighbourhood Plan modifying a portion of the property from “Medium Density Apartments” to “High Density Apartments”.

Issues identified through the circulation include:

- The proposed development does not comply with the policies of the Urban Hamilton Official Plan as follows:
  - The proposed building height exceeds the height of the Niagara Escarpment. Using the City of Hamilton Downtown Secondary Plan as a guide, given it measures the Escarpment height at Queen Street North, the maximum building height on the east side of Queen Street North is 190 metres at its highest point. As per the elevations submitted with the applications, the proposed height of the tallest tower is 229.96 metres which exceeds the height of the Niagara Escarpment;
  - A Visual Impact Assessment was not included in the resubmission package;
  - Compatibility with the surrounding neighbourhood due to the proposed height, building setbacks and limited landscaping;
  - Incomplete Wind Study which needs to address outstanding concerns with the proposed development;

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1) - Page 5 of 5**

---

- Incomplete Sun/Shadow Study which must assess additional shadows to Victoria Park and Gary Hill Memorial Park. In addition, the Napier Street sidewalk does not obtain a minimum amount of three hours of sunlight as a result of the development;
- An illustration of the concrete bus landing pad to be constructed within the municipal right-of-way is required; and,
- The proposed podium is taller than the width of the road, which creates concerns with compatibility of the surrounding neighbourhood.

### **Public Consultation**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation for the applications were sent to 295 property owners within 120 metres of the subject lands on February 3, 2022. Pursuant to the City's Public Consultation Strategy Guidelines, the applicant held a Virtual Open House on March 22, 2022. A summary was not provided by the applicant with information regarding the attendance or concerns / comments received by attendees.

To date staff have received 35 submissions from the public for the initial proposal. Concerns identified include increased traffic, increased density, possible servicing impacts, compatibility with the surrounding neighbourhood, height and massing of the proposal, setbacks and publicly accessible greenspace, increased wind impacts on public spaces, increased crime, the number of parking spaces proposed for each residential unit mix of the building and additional shadowing in the neighbourhood.

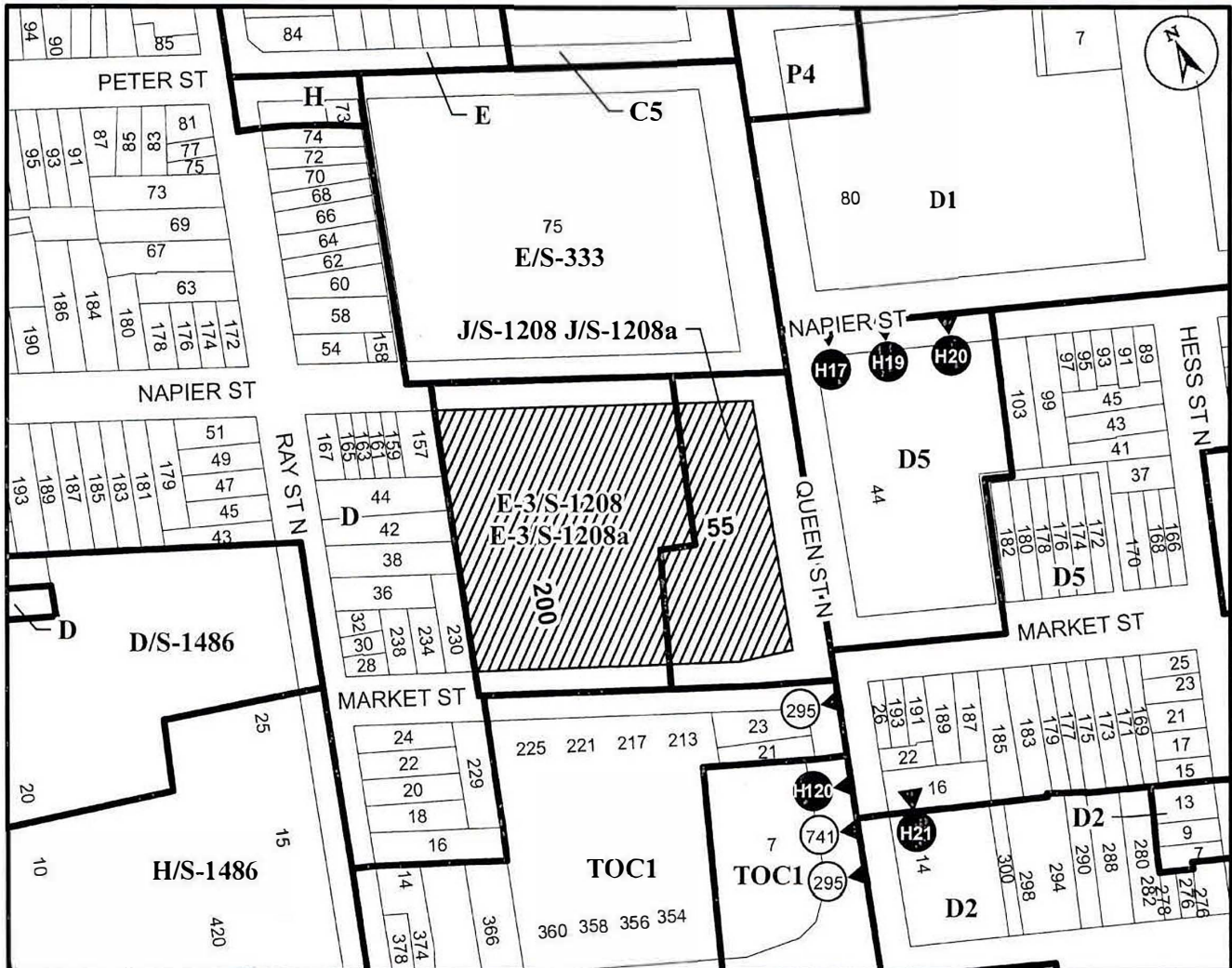
The applicant has not undertaken additional Public Consultation for the revised submission received on December 22, 2023.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24055 – Location Map  
 Appendix "B" to Report PED24055 – Concept Plans and Building Elevations  
 Appendix "C" to Report PED24055 – Letter of Appeal

AB/sd

Appendix "A" to Report PED24055  
Page 1 of 1



● Site Location



Key Map - Ward 1

# Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-22-012/UHOPA-22-005


Date:  
January 24, 2022

Appendix "A"

Scale:  
N.T.S

Planner/Technician:  
MK/NB

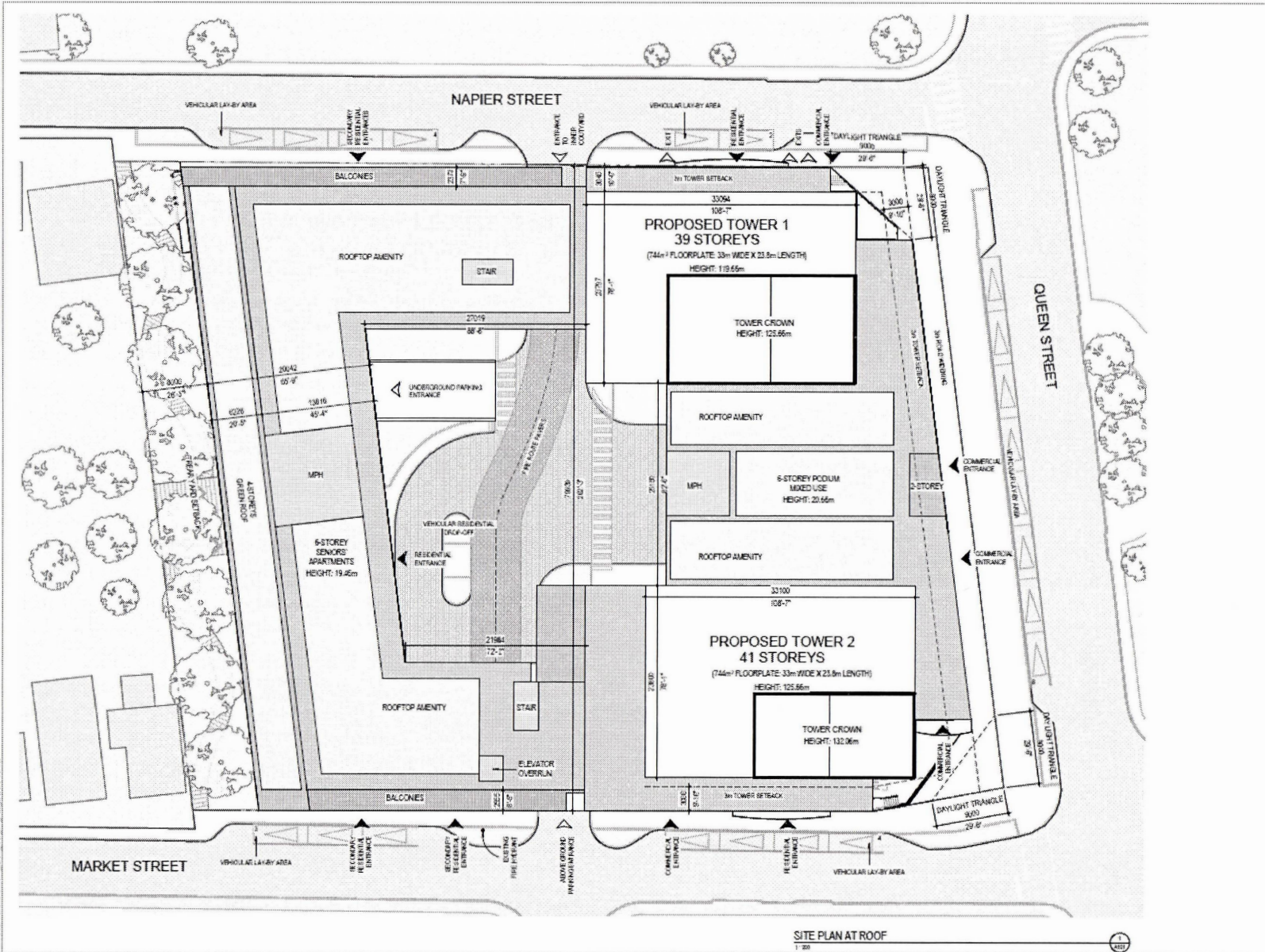
### Subject Property

 200 Market Street and 55 Queen Street North,  
Hamilton (Ward 1)









SITE PLAN AT ROOF  
 1" = 20'

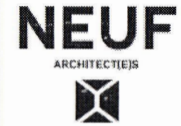
**PREPARED BY:**  
 A. J. Clark and Associates Ltd.  
 25 West Beaver Creek Road, Richmond Hill, Ontario L4B 1N7  
 Tel: (905) 881-1111 | www.ajc.ca

**CLIENT:**  
 MTE Consultants Inc.  
 1038 Dundas Street West, Toronto, Ontario M6J 1B4  
 Tel: (416) 593-1111 | www.mte.ca

**PROJECT:**  
 125 NAPIER STREET  
 TORONTO, ONTARIO M5C 1S7

**DATE:**  
 2023-01-01

**SCALE:**  
 1" = 20'



**PROJECT:**  
 125 NAPIER STREET  
 TORONTO, ONTARIO M5C 1S7

**DATE:**  
 2023-01-01

**SCALE:**  
 1" = 20'

**DRAWN BY:**  
 J.A.

**CHECKED BY:**  
 C.B.S.

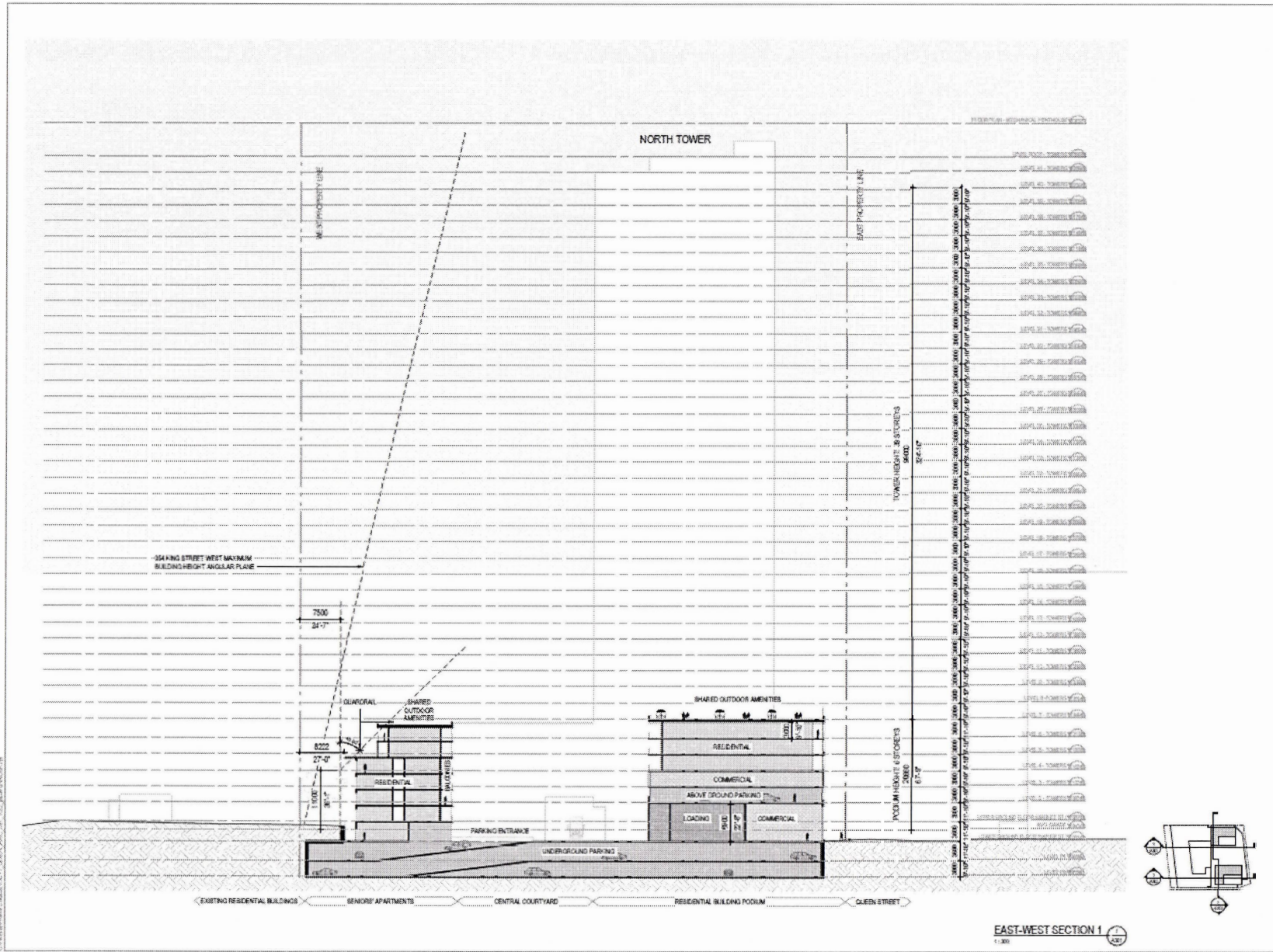
**DATE:**  
 2023-01-01

**SCALE:**  
 1" = 20'

**SITE PLAN AT ROOF**







EAST-WEST SECTION 1  
 1:300

GENERAL NOTES

1. These drawings are prepared in accordance with the provisions of the Ontario Building Code and the National Building Code of Canada.
2. No reliance should be placed on these drawings for any purpose other than that intended by the architect.
3. The architect is not responsible for any errors or omissions in these drawings or for any consequences arising therefrom.
4. The contractor shall be responsible for obtaining all necessary permits.

ARCHITECTURAL CONSULTANTS

**A. J. Clarke and Associates Ltd.**  
 25 Main Street West, Suite 100, Hamilton, Ontario L8R 1M7  
 TEL: (905) 571-1111 | www.ajclarke.com

DATE

**MTE Consultants Inc.**  
 1075 Dundas Street West, Suite 100, Hamilton, Ontario L8R 1M7  
 TEL: (905) 571-1111 | www.mte.ca

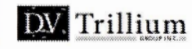
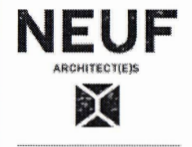
ENGINEER

**RWEC**  
 1075 Dundas Street West, Suite 100, Hamilton, Ontario L8R 1M7  
 TEL: (905) 571-1111 | www.rwec.ca

PLANNING

ARCHITECTURE

**NEUF architectes**  
 800-361-1111 | www.neufarchitectes.com



PROJECT

**125 HAPNER STREET**

LOCATION

HAMILTON, ON

NO. PROJECT

13071

DATE

2023-01-01

SCALE

1:300

EAST-WEST SECTION 1



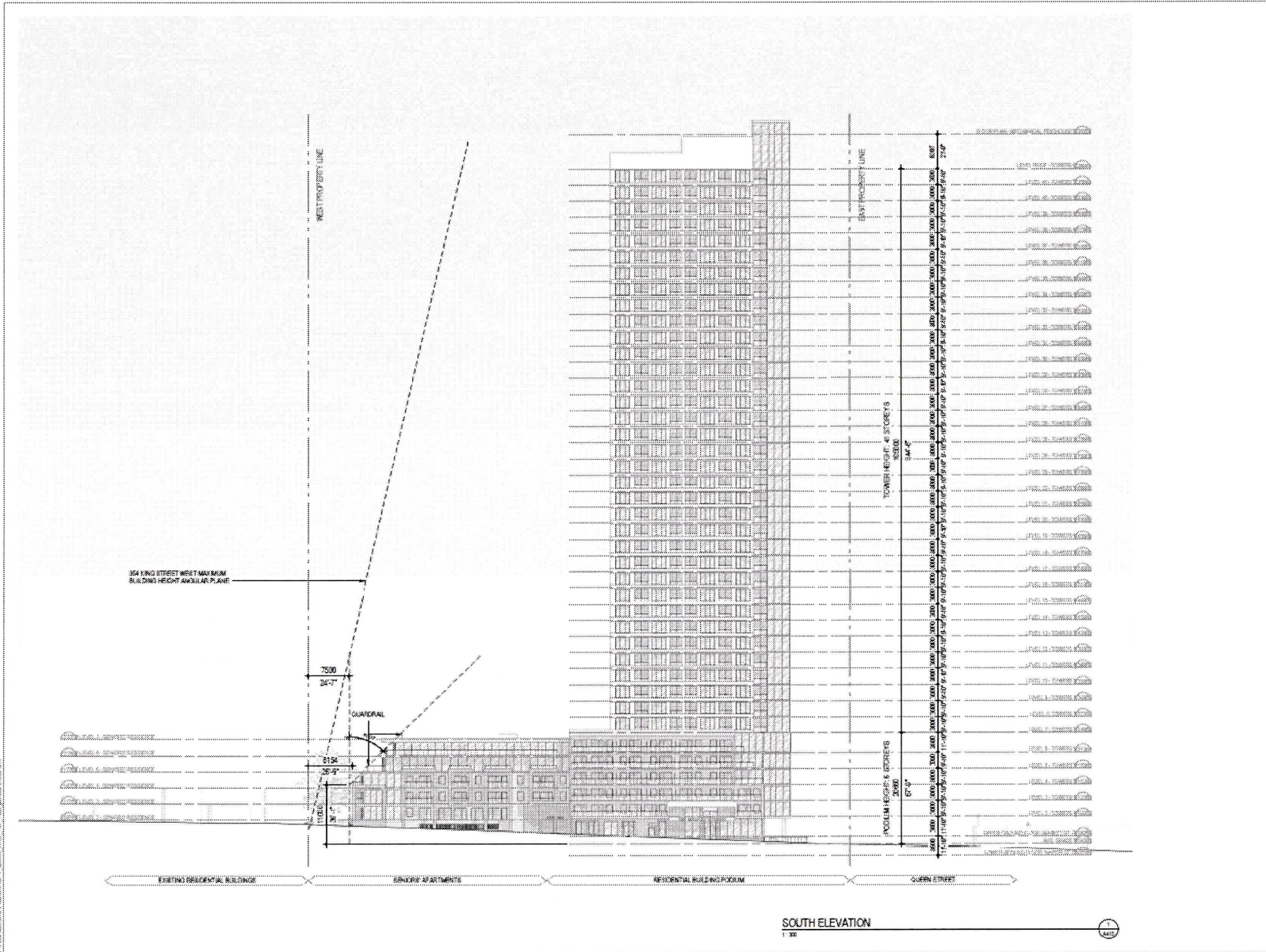












SOUTH ELEVATION  
 1/30

1. These drawings are prepared for the use of the property owner and are not to be used for any other purpose without the written consent of the architect.  
 2. No liability shall be accepted by the architect for any error or omission in these drawings.  
 3. The architect is not responsible for any error or omission in these drawings.  
 4. The architect is not responsible for any error or omission in these drawings.

PLANNING CONSULTANTS  
**A. J. Clarke and Associates Ltd.**  
 25 Main Street West, Suite 202, Hamilton, Ontario L8P 1A7  
 TEL: 905.571.1111 | WWW.AJCLARKE.COM

MTE Consultants Inc.  
 1015 Dundas Street East, Suite 200, Hamilton, Ontario L8N 3K6  
 TEL: 905.571.1111 | WWW.MTECONSULTANTS.COM

RWDI  
 400 Macpherson Drive, Suite 101, Hamilton, Ontario L8N 3K6  
 TEL: 905.571.1111 | WWW.RWDI.COM

adedge design inc.  
 80 St. James Street West, Suite 200, Hamilton, Ontario L8N 3K6  
 TEL: 905.571.1111 | WWW.ADGEDSIGN.COM

**NEUF architectes**  
 2000 Dundas Street West, Suite 200, Hamilton, Ontario L8N 3K6  
 TEL: 905.571.1111 | WWW.NEUFARCHITECTES.COM

**NEUF ARCHITECTES**  
 ARCHITECTES

**DV Trillium**  
 BELLEFleur  
 700 BELLEFLEUR  
 1000 BELLEFLEUR

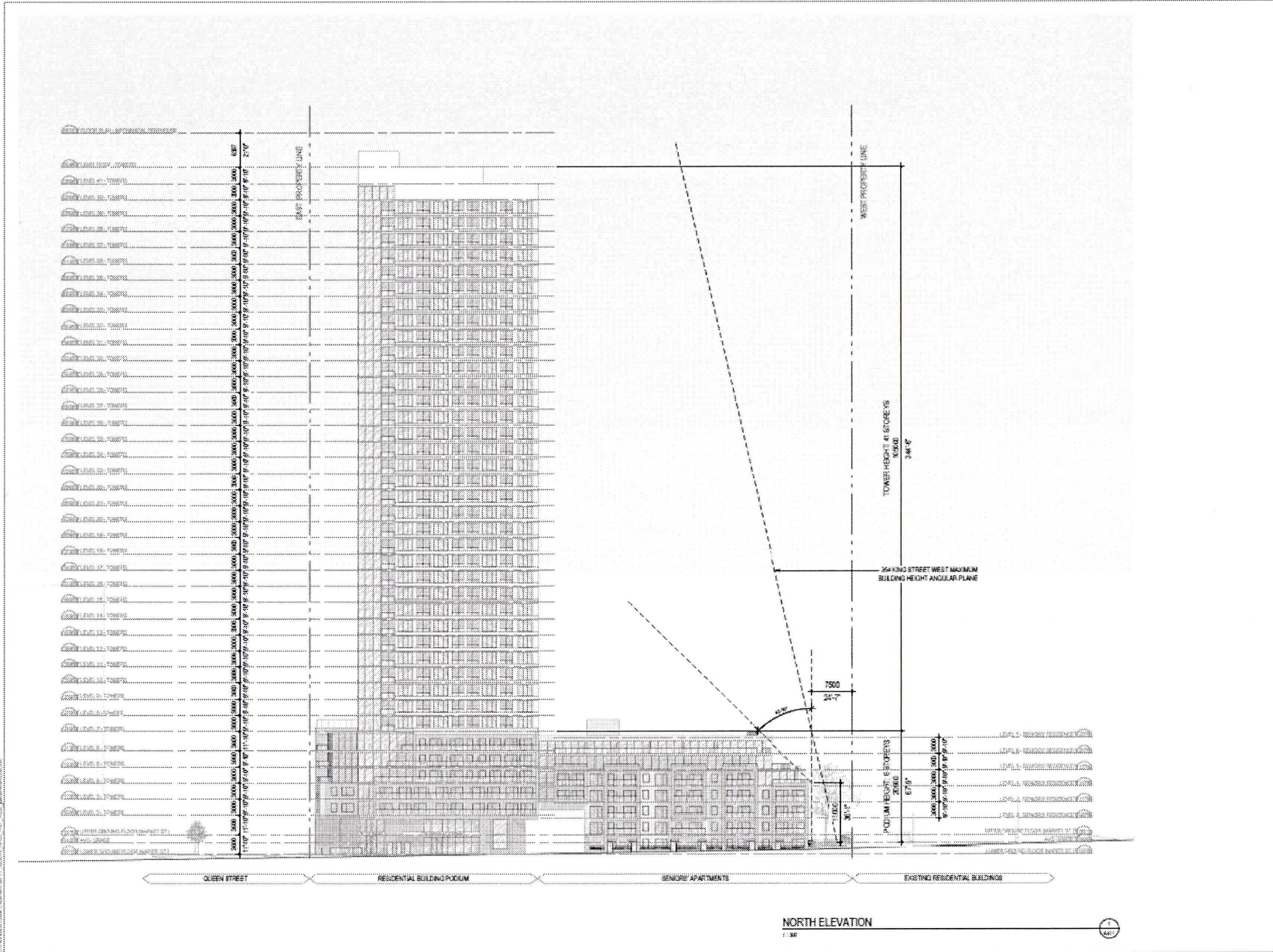
**125 HAPIER STREET**  
 LOCATION: HAMILTON, ON  
 HP PROJECT: 13071

DRAWN BY: JAK  
 DATE: 2024-04-01  
 DRAWING TITLE: ELEVATION - SOUTH

CHECKED BY: C. BELL  
 DATE: 2024-04-01  
 DRAWING TITLE: ELEVATION - SOUTH

A410





**GENERAL NOTES**

- These drawings are prepared for the use of the client and are not to be used for any other purpose without the written consent of the architect.
- The architectural scope of this contract shall be strictly as stated in the contract documents.
- The architect shall not be responsible for the accuracy of the data furnished by the client.
- The drawings are to be read in accordance with the contract documents.

**PLANNING CONSULTANTS**

**A. J. Clarke and Associates Ltd.**  
 25 Main Street West, Suite 200, Hamilton, Ontario L8N 1K7  
 T: (905) 571-1111 | www.ajclarke.com

**CIVIL**

**MTE Consultants Inc.**  
 1018 Bloor Street West, Suite 201, Toronto, Ontario M6H 1L9  
 T: (416) 223-2222 | www.mte.com

**MEP STUDY**

**MEP**

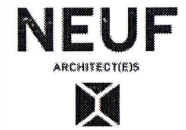
**MEP Consultants Inc.**  
 1018 Bloor Street West, Suite 201, Toronto, Ontario M6H 1L9  
 T: (416) 223-2222 | www.mep.com

**LANDSCAPE**

**adesso Design Inc.**  
 80 York Street, Suite 201, Hamilton, Ontario L8N 1K7  
 T: (905) 571-1111 | www.adesso.com

**ARCHITECTS**

**NEUF architects**  
 4 Market Street Suite 101, Toronto, Ontario M5E 1H9  
 T: (416) 593-8888 | www.neuf.com



**PROJECT**

**125 NAPIER STREET**

LOCATION: HAMILTON, ON

NO. PROJECT: 15075

**REV.**

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY DRAWING	SEP 2017	

**DESIGNED BY:** JJA

**DRAWN BY:** CPEL

**CHECKED BY:** CPEL

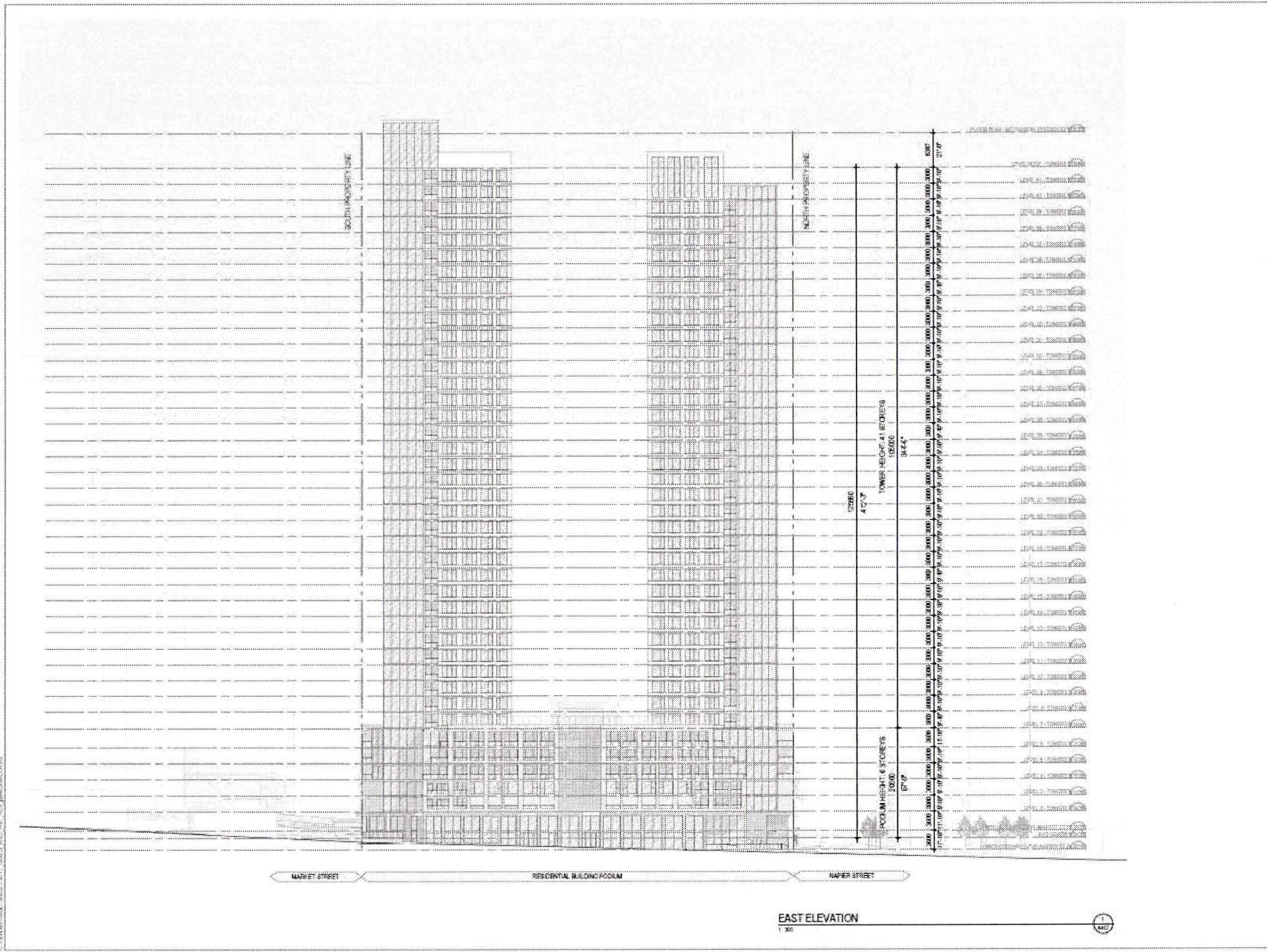
**DATE:** 2023-04-11

**SCALE:** 1:500

**ELEVATION - NORTH**







GENERAL NOTES

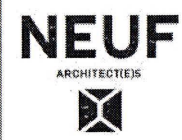
1. These elevations are to be used in conjunction with the architectural program and specifications for the project.
2. All materials and finishes are to be as specified in the architectural program and specifications.
3. The architect shall be notified of all changes to the architectural program and specifications in writing.
4. The architect shall be notified of all changes to the architectural program and specifications in writing.

PLANNING CONSULTANTS  
**A. J. Clark and Associates Ltd.**  
 20 York Street, Suite 400, Hamilton, Ontario L8N 2P7  
 T: 905.571.1111 F: 905.571.1112 www.ajclark.com

CAD  
**MTE Consultants Inc.**  
 107 Dundas Street West, Suite 1000, Hamilton, Ontario L8N 1G9  
 T: 905.571.1111 F: 905.571.1112 www.mte.com

ARCHITECT  
**RWD3**  
 300 Bunting Drive, Toronto, Ontario M5G 1B4  
 T: 416.593.1111 F: 416.593.1112 www.rwd3.com

ENGINEER  
**Neuf Architecte(s)**  
 4 Market Street, Suite 100, Hamilton, Ontario L8N 1P7  
 T: 905.571.1111 F: 905.571.1112 www.neufarchitecte.com



PROJECT  
**125 NAPIER STREET**

LOCATION  
 HAMILTON ON N4P1P7  
 43.671° N 79.871° W

NO. 125 NAPIER STREET  
 HAMILTON ON N4P1P7

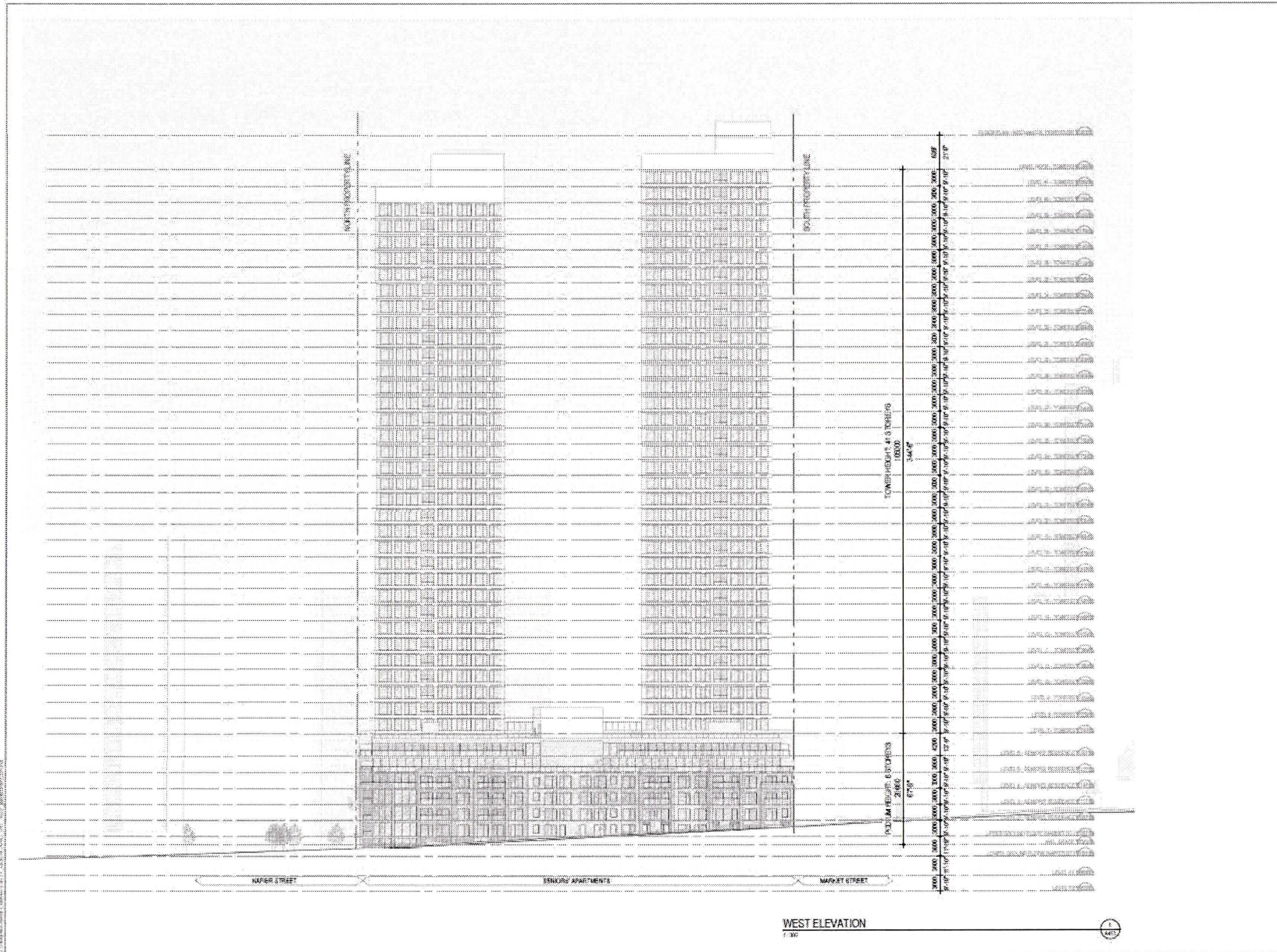
ISSUED BY  
 JJA  
 DATE ISSUED  
 2023-01-01

DRAWN BY  
 CREIK  
 SCALE  
 1:300

**ELEVATION - EAST**







**APPENDIX "B" TO REPORT PED24055**  
 1. These architectural elevations are the property of NEUF Architecte Inc. and shall remain the property of NEUF Architecte Inc. if not otherwise stated.  
 2. No permission is given to reproduce or use these architectural elevations for any purpose other than that for which they were prepared.  
 3. The architect makes no warranty of accuracy, completeness or suitability for any purpose other than that for which they were prepared.  
 4. The architect is not responsible for any errors or omissions in these architectural elevations.

**PROJECT INFORMATION**  
 PROJECT: 125 NAPIER STREET  
 CLIENT: **A. J. Clark and Associates Ltd.**  
 20 West Street, Suite 400, Hamilton, Ontario L8N 2P1  
 T 905.521.2700 | www.ajclark.com

**ARCHITECT**  
**NEUF Architecte Inc.**  
 125 NAPIER STREET, SUITE 400, HAMILTON, ONTARIO L8N 2P1  
 T 905.521.2700 | www.neufarchitecte.com

**DATE**  
 2023-01-31

**SCALE**  
 1/800

**PROJECT**  
**125 NAPIER STREET**  
 HAMILTON, ON L8N 2P1

**NO. SHEETS** 0078 (Elevations)  
**TOTAL SHEETS** 0082 (Elevations)

**DATE** 2023-01-31  
**SCALE** 1/800

**ELEVATION - WEST**

**APPENDIX "B" TO REPORT PED24055**  
**A113**

Barristers & Solicitors

WeirFoulds LLP

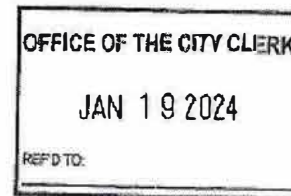
January 18, 2024

Denise Baker  
Managing Partner  
t. 416-947-5090  
dbaker@weirfoulds.com

VIA EMAIL AND COURIER

File No. 22258.00001

Office of the City Clerk  
City of Hamilton  
71 Main Street West, 1<sup>st</sup> floor  
Hamilton, Ontario  
L8P 4Y5



Attention: Andrea Holland, City Clerk

Dear Ms. Holland:

**Re: Notice of Appeal of Proposed Official Plan and Zoning By-law Amendments  
Sections 22(7) and 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended  
200 Market Street, 125 Napier Street, and 55 Queen Street North, City of Hamilton  
File No: UHOPA-22-005 and ZAC-22-012**

We are legal counsel for Hamilton Queen and Market Inc. (the "Client"), owners of the lands municipally known as 200 Market Street, 125 Napier Street, and 55 Queen Street North (the "Site"), in the City of Hamilton (the "City").

**BACKGROUND AND PROPOSAL SUMMARY**

The Site is bound to the north by Napier Street, to the east by Queen Street North, and to the South by Market Street. The Site is comprised of one parcel of land municipally known as 200 Market Street, 55 Queen Street North, and 125 Napier Street.

The Site is currently occupied with a commercial surface parking lot and has an approximate area of ±7,979.7 square metres, with ±77 metres of frontage along Queen Street North, and a frontage of ±99 metres along both Market Street and Napier Street.

In January of 2022, applications for an Official Plan and a Zoning By-law amendment (Files: UHOPA-22-005 and ZAC-22-012) (the "Applications") were filed with the City. The Applications contemplated the development of four (4) residential towers on a 3-storey podium, (the "Proposed Development"). Two towers were proposed at 27-storeys tall and the remaining two



towers were proposed to be 15-storeys tall. Within the podium, five (5) ground floor commercial units and one second floor office unit were proposed facing Queen Street North, with a total commercial gross floor area of 1,003m<sup>2</sup>. In addition, within the podium nine (9) residential "townhouse" units facing Market Street were proposed as well as senior's apartments facing on to Napier Street. The Proposed Development included two vehicular accesses; one on Market Street and one on Napier Street, with all parking contained above and below-grade in an enclosed garage. A total of 762 units were proposed with 369 parking spaces.

The Initial Applications were deemed complete under the *Planning Act*.

Following the submission of the Applications, revisions to the proposal were submitted in December 2023 (the "**Revised Proposal**").

The Revised Proposal consists of only two residential towers fronting onto Queen Street North with a height of 39 storeys and 41 storeys, with a total of 1,047 residential units, and a six (6) storey podium. 324 parking spaces and 549 long-term bicycle parking spaces are proposed.

The City has failed to make a decision on the Applications within the time period contemplated in the *Planning Act*, and, as such, our client is filing this appeal to the Ontario Land Tribunal ("**Tribunal**").

## **THE REVISED PROPOSAL**

The purpose and effect of the Official Plan and Zoning By-law amendments (the "OPA" and "ZBA") are to implement the Revised Proposal to permit a mixed-use development consisting of a six (6) storey podium with two separate 33 and 35 storey towers for a total of 41 and 39 storeys. The maximum proposed height is 126 metres from grade and 229 metres tall when measured above sea level (ASL).

### **(i) Application for Official Plan Amendment**

This site is designated Neighbourhoods on Schedule E – Urban Structure. The proposed multiple dwellings and ground floor commercial uses are permitted uses. The Site is designated for high-density development in the Strathcona Neighbourhood Secondary Plan. The requested OPA will permit the addition of a site-specific designation to Volume



Barristers & Solicitors

WeirFoulds LLP

3 of the parent Official Plan and to Map B.3.3-1 of the Strathcona Secondary Plan for the purposes of permitting the height of the Revised Proposal.

(ii) **Application for Zoning By-law Amendment**

The ZBA would implement the Revised Development by way of site specific regulation and would bring the Site out of Hamilton Zoning By-law 6593 and into Zoning By-law 05-200 Zoning, which is the City's new comprehensive zoning by-law by rezoning the Site to the Downtown Prime Retail (D2) Zone. As there are no High Density Zones within Zoning By-law No. 05-200 as of yet, the Downtown Zone has been applied to this application as it contains the most up-to-date standards for tall building proposals such as this.

**REASONS FOR APPEAL**

The primary reason for the appeal is that a decision has not been made on the Applications within the statutory time period as set out in the *Planning Act*. Kindly accept this correspondence as Hamilton Queen and Market Inc.'s Notice of Appeal pursuant to section 22(7) of the Act in the case of the proposed OPA, and pursuant to section 34(11) of the Act in the case of the proposed ZBA. We note the following in support of Hamilton Queen and Market Inc.'s appeals of the Applications:

1. The Applications have regard to the matters of Provincial interest as set out in section 2 of the *Planning Act*.
2. The Applications are consistent with the Provincial Policy Statement (2020) (the "PPS") and conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the "Growth Plan") and the Urban Hamilton Official Plan ("UHOP"), including the Strathcona Neighbourhood Secondary Plan and have regard to the Growth Related Integrated Development Strategy, as the Applications will promote the efficient use of land and infrastructure in a transit-supportive manner and provide additional housing to assist the municipality in meeting its intensification targets and its housing pledge.
3. From a land use perspective, the proposal will contribute to the achievement of policy directions supporting intensification and infill within the built-up urban area, particularly in

locations which are well-served by municipal infrastructure, including public transit. In this respect, the proposal will encourage a sense of place and provide for a high quality, attractive, accessible built-form that provides for additional rental housing within the neighbourhood.

4. Specifically, the Proposed Development of the Site is consistent with and conforms to the applicable planning policy framework as noted below:

- a) The PPS, by providing a sustainable land use pattern for the financial well-being of the Province and the Municipality. Among other matters, the proposal will result in the redevelopment and intensification of lands within the built-up area, providing residential dwelling units and flexible commercial uses in a compact built-form representing an efficient use of land, infrastructure, and public service facilities. Further, the proposal will assist in providing for a range of housing as the proposed redevelopment will contribute to rental housing stock in the lower city.
- b) Under the Growth Plan, the Site is located within the delineated built-up area. The Revised Proposal will result in intensification, through the development of an efficient use of existing parking lot space. The Site is appropriately located for multiple-residential development and a mixed-use area that has a range of uses that include a number of necessities for daily living, including local stores and services, jobs and public service facilities.

The redevelopment will further support the achievement of complete communities through the introduction of multiple residential dwelling units as well as provide additional opportunities for non-residential uses, which will support the needs of future residents of the proposed development and residents of the surrounding area. Ultimately, the proposed development will assist the City in achieving the minimum density targets set out in the Growth Plan and the UHOP through intensification of an underutilized site.

- c) Strathcona Neighbourhood Secondary Plan (the "SNSP")  
The SNSP acknowledges that high-density development greater than 10 storeys can be permitted subject to certain criteria. The Revised Proposal meets the criteria in the

SNSP to allow for height beyond 10 storeys as the Revised Proposal does not result in any adverse Sun, Shadow, Wind or Visual impacts on the public or private realm.

d) In consideration of the substantial work that was considered through the GRIDS 2 process, the Revised Proposal is appropriate and maintains the intent of the policies of the UHOP and the SNSP. The proposal presents an opportunity to intensify the Site in a manner that is sympathetic with the neighbourhood while also considering prevailing factors such as the need for additional residential units, including rental units in a built-form that is already found along Queen Street.

5. The Site is identified for urban intensification given it is located in a settlement area, which is an appropriate location for intensification and redevelopment with a compact form adjacent to Downtown Hamilton. The Revised Proposal efficiently utilizes land and existing municipal services to reduce the need for uneconomical growth and expansion of the settlement area.
6. From both a land use and urban design standpoint, the Revised Proposal has been thoughtfully designed to be compatible with surrounding developments and respects the existing and emerging built-form and character. Further, the development presents a unique opportunity to redevelop one of the few remaining vacant parcels of land in the neighbourhood.
7. The proximity of the Proposed Development to community amenities such as parks, community centres, schools, shopping, entertainment as well as bus routes, rapid transit networks and active transportation options contributes to the reduction in reliance on automobile use and encourages active transportation and transit usage, which ultimately facilitates the development of complete communities.
8. The Applications represent a timely and needed housing intensification in response to the provincially identified housing crisis. Further, the proposal is aligned with the Council Adopted strategy to include all anticipated growth within the City of Hamilton to 2051 within the Urban Boundary.

9. The 2023 Resubmission results in a proposal that is appropriate for the area and establishes a good land use planning relationship between the proposed buildings and the streets, public realm and existing neighbourhoods. The Applications represent good planning and urban design and is in the public interest.
10. Such further and other reasons as counsel may advise and the Tribunal may permit.

### **Filing Requirements**

In satisfaction of the Tribunal's filing requirements, enclosed please find the following:

1. One completed and duly signed OLT Appeal Form (A1); and
2. Two firm cheques, each in the amount of \$1,100.00, made payable to the Minister of Finance, representing the filing fee for said appeals.

Please kindly acknowledge receipt of this letter and confirm when the appeals have been forwarded to the Tribunal. Please ensure that your transmittal of these two appeals to the OLT advises that these appeals are related to one another and need to be processed concurrently pending a formal consolidation.

### **CONCLUSION**

Despite the unfortunate need to file these appeals, Hamilton Queen and Market Inc. remains prepared to engage in discussions with the City. It remains our hope that this matter can be resolved on a consensual basis thereby implementing Council's recommended conversion direction. We remain open to Tribunal-facilitated mediation if there is also a willingness on the City's part.



**WeirFoulds**LLP

Barristers & Solicitors

Thank you for your attention to this matter. Should you have any questions or require further information, please do not hesitate to contact the undersigned.

Yours truly,

**WeirFoulds LLP**



Per: Denise Baker  
Partner

DB/MK

Encs. 3

Cc Client

20009497.1



## Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5  
 Tel: 416-212-6349 | 1-866-448-2248  
 Web Site: olt.gov.on.ca

## Appeal Form (A1)

Date Stamp

OFFICE OF THE CITY CLERK

JUN 19 2024

REFD TO

(OLT Office Use Only)

**OLT Case Number**  
(OLT Office Use Only)

**Date Stamp – Appeal Received by OLT**

Please complete this Appeal Form by following the instructions in the companion document titled “Appeal Form Instructions”. Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal’s [website](#) for different appeal types to assist you in filing an appeal.

**Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.**

### Section 1 – Contact Information (Mandatory)

Applicant/Appellant/Objector/Claimant Information			
Last Name:		First Name:	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation): Hamilton Queen & Market Inc.			
Email Address: guntherbluesz@outlook.com			
Daytime Telephone Number: 905-921-4419		Alternative Telephone Number:	
		ext.	
Mailing Address			
Unit Number:	Street Number: 366	Street Name: King Street W.	P.O. Box:
City/Town: Hamilton	Province: ON	Country: Canada	Postal Code: L8P 1B3





<input type="checkbox"/>	Appeal of <i>Development Charges Act, Education Act, Aggregate Resources Act, Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B
<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A
<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i>	4B
<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5A
<input type="checkbox"/>	Application to amend the <i>Niagara Escarpment Plan</i>	5B
<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6
<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal

**Section 3A – Planning Matters:**

**Appeal Reasons and Specific Information**

Number of new residential units proposed:

1047

Municipal Reference Number(s):

UHOPA-22-005 & ZAC-22-012

List the reasons for your appeal:

See attached correspondence

Has a public meeting been held by the municipality?  Yes  No

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you will rely on one or more of the following grounds:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

**And**

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*



Conformity with a provincial plan  
 Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan  
 If it is your intention to argue one or more of the above grounds, please explain your reasons:  
 See attached correspondence

**Oral/Written submissions to council**  
 Did you make your opinions regarding this matter known to council?  
 Oral submissions at a public meeting of council  
 Written submissions to council  
 Not applicable

**Related Matters**  
 Are there other appeals not yet filed with the Municipality?  
 Yes  No  
 Are there other matters related to this appeal? (For example: A consent application connected to a variance application).  
 Yes  No  
 If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:

**Section 3B – Other Planning Matters**

**Appeal Specific Information (Continued)**  
 Date application submitted to municipality if known (yyyy/mm/dd):  
 Date municipality deemed the application complete if known (yyyy/mm/dd):  
 Please briefly explain the proposal and describe the lands under appeal:  
 There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 3B Checklist\(s\)](#) located [here](#) and submit all documents listed.

**Section 4A – Appeals under Environmental Legislation**

**Appeal Specific Information**  
 Outline the grounds for the appeal and the relief requested:

Reference Number of the decision under appeal:
Portions of the decision in dispute:
Date of receipt of Decision or Director's Order (yyyy/mm/dd):
Applying for Stay? <input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, outline the reasons for requesting a stay: (Tribunal's Guide to Stays can be viewed <a href="#">here</a> )
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <a href="#">Section 4A Checklist(s)</a> located <a href="#">here</a> and submit all documents listed on the checklist.

**Section 4B – Environmental Application for Leave to Appeal**

Are you filing an Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i> ? <input type="checkbox"/> Yes <input type="checkbox"/> No
Identify the portions of the instrument you are seeking to appeal:
Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:
Outline the relief requested:
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <a href="#">Section 4B Checklist(s)</a> located <a href="#">here</a> and submit all documents listed on the checklist.



**Section 5A – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act***

Development Permit Application File No:
Name of Applicant for Development Permit:
Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission's website ( <a href="http://www.escarpment.org">www.escarpment.org</a> ))

**Section 5B – Application to amend the *Niagara Escarpment Plan***

Owner			
Last Name:		First Name:	
Email Address:			
Daytime Telephone Number:		Alternative Telephone Number:	
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:
City/Town:	Province:	Country:	Postal Code:

**Property Location & Information**

Municipality:	Street Number:	Street Name:	
Lot:	Concession:	<b>And/or</b>	Plan:
Assessment Roll Number or PIN:		Lot Size:	

**Property Servicing**

Existing Road Frontage:	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private	Proposed Road Frontage:	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private
Existing Water Supply:	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private	Proposed Water Supply:	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private
Existing Sewage Disposal:	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private	Proposed Sewage Disposal:	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private

**Is the Proposal the Subject of a Current Application? Please identify**

- Development Permit under *Niagara Escarpment Planning and Development Act*
- The *Planning Act* (Official Plan or Zoning By-law Amendment)
- The *Aggregate Resources Act* (License)
- Committee of Adjustment (Minor Variance)
- Land Division Committee (Severance)
- Other:

**Description of the Property**

Describe the current use of the property including any existing buildings or structures:

**Category of the Proposed Amendment**

- Change in Designation
- Request for Urban Servicing
- Other:
- Change to Policy
- Change to Plan Boundary

**Detailed Description of Proposed Amendment**

Provide a detailed description of the proposed amendment:

**Justification and Rationale**

(Including Reasons, Argument and Evidence in Support of the Amendment)  
(See Niagara Escarpment Plan Amendment Guidelines)

The justification submitted with the application should address the following:

1. Analysis of how the proposed amendment is consistent with the *Niagara Escarpment Planning and Development Act*, the Niagara Escarpment Plan, and shall be consistent with other relevant Provincial plans.
2. A justification which includes the rationale for the amendment, as well as reasons, arguments or evidence in support of the change to the Plan proposed through the amendment.

The following studies and reports may be necessary to be submitted in support of justification of the proposed amendment (The applicability of the following will depend on the nature of the application):

- Agricultural Land Use Impacts
- Air Quality Impact Assessment
- Engineering Reports
- Environmental Impact Study
- Geological Studies
- Grading Plans – Existing and proposed and Slope Stabilization Plans and Typical Cross Sections
- Historical/Cultural/Archeological Impact Assessment
- Hydrogeological Impact Assessment
- Landscape/Visual Impact Analysis
- Noise Impact Assessment
- Setback from the Brow of the Escarpment
- Suitable for Septic Systems
- Traffic Impact Assessment
- Tree Removal/Planting including Berming and Landscaping
- Other:



Site Plan
<p>Please attach an accurate Site Plan drawn to scale. The Site Plan may be drawn on a blank sheet, on an attached Survey, or by using mapping software (Ontario Make a Map etc.). The Site Plan must show existing features, such as, buildings and structures, streams, changes in grades, rock outcrops, driveways, forested areas and proposed uses to changes to the property or the features.</p> <p><b>NOTE:</b> For amendments regarding Mineral Resource Extraction Areas, please provide copies of the Site Plan as required by Regulation under the <i>Aggregates Resources Act</i>.</p>

**Section 6 – Mining Claim and Conservation Matters**

Appeal Specific Information
<p>List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for <i>Mining Act</i> appeals only.)</p>
<p>List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):</p>
<p>Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:</p>
<p>Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:</p>

Respondent Information			
Conservation Authority:			
Contact Person:			
Email Address:			
Daytime Telephone Number:		Alternative Telephone Number:	
	ext.		
Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available			
Unit Number:	Street Number:	Street Name:	P.O. Box:
City/Town:	Province:	Country:	Postal Code:
<p>There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <u>Section 6 Checklist(s)</u> located <u>here</u> and submit all documents listed on the checklist.</p>			

**Section 7 – Filing Fee**

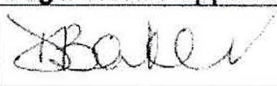
**Required Fee**  
 Please see the attached link to view the OLT Fee Chart.  
 Total Fee Submitted: \$2,200.00

Payment Method	<input type="checkbox"/> Certified Cheque	<input type="checkbox"/> Money Order	<input checked="" type="checkbox"/> Lawyer's general or trust account cheques
	<input type="checkbox"/> Credit Card		

If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form.  
 If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the Fee Reduction request form.  
 Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)

**Section 8 – Declaration (Mandatory)**

**Declaration**  
 I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.  
 By signing this appeal form below, I consent to the collection of my personal information.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Denise Baker		2024/01/18

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator at [OLT.Coordinator@ontario.ca](mailto:OLT.Coordinator@ontario.ca) or toll free at 1-866-448-2248 as soon as possible.

**Section 9 – Filing Checklists (Mandatory)**

**Filing/Submitting your form and documentation**  
 You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

If the completed Section is:	You must file with the following:		
Section 3A	Municipality or the Approval Authority/School Board  *If you are filing under the <i>Ontario Heritage Act</i> , including under s. 34.1(1), please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal <b>in addition</b> to the Municipality or Approval Authority.		
Section 3A & 3B or Section 4A or Section 4B or Section 6	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5  Phone: 416-212-6349   1-866-448-2248 Website: <a href="http://www.olt.gov.on.ca">www.olt.gov.on.ca</a>		
Section 5A or 5B	<table border="1"> <tr> <td><b>For the Areas of:</b> Dufferin County (Mono) Region of Halton</td> <td><b>For the Areas of:</b> Bruce County Grey County</td> </tr> </table>	<b>For the Areas of:</b> Dufferin County (Mono) Region of Halton	<b>For the Areas of:</b> Bruce County Grey County
<b>For the Areas of:</b> Dufferin County (Mono) Region of Halton	<b>For the Areas of:</b> Bruce County Grey County		



	<p>Region of Peel Region of Niagara City of Hamilton</p> <p><b>File with:</b> NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3<sup>rd</sup> Floor Georgetown, ON L7G 4B1 Phone: 905-877-5191 Fax: 905-873-7452 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a></p>	<p>Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p><b>File with:</b> NIAGARA ESCARPMENT COMMISSION 1450 7<sup>th</sup> Avenue Owen Sound, ON N4K 2Z1 Phone: 519-371-1001 Fax: 519-371-1009 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necowensound@ontario.ca">necowensound@ontario.ca</a></p>
--	--	--

**NOTE:** Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

**NOTE:** Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.





WELCOME TO THE CITY OF HAMILTON

# PLANNING COMMITTEE

April 16, 2024

## **PED24055 – (UHOPA-22-005 / ZAC-22-012)**

Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton.

Presented by: Alaina Baldassarra

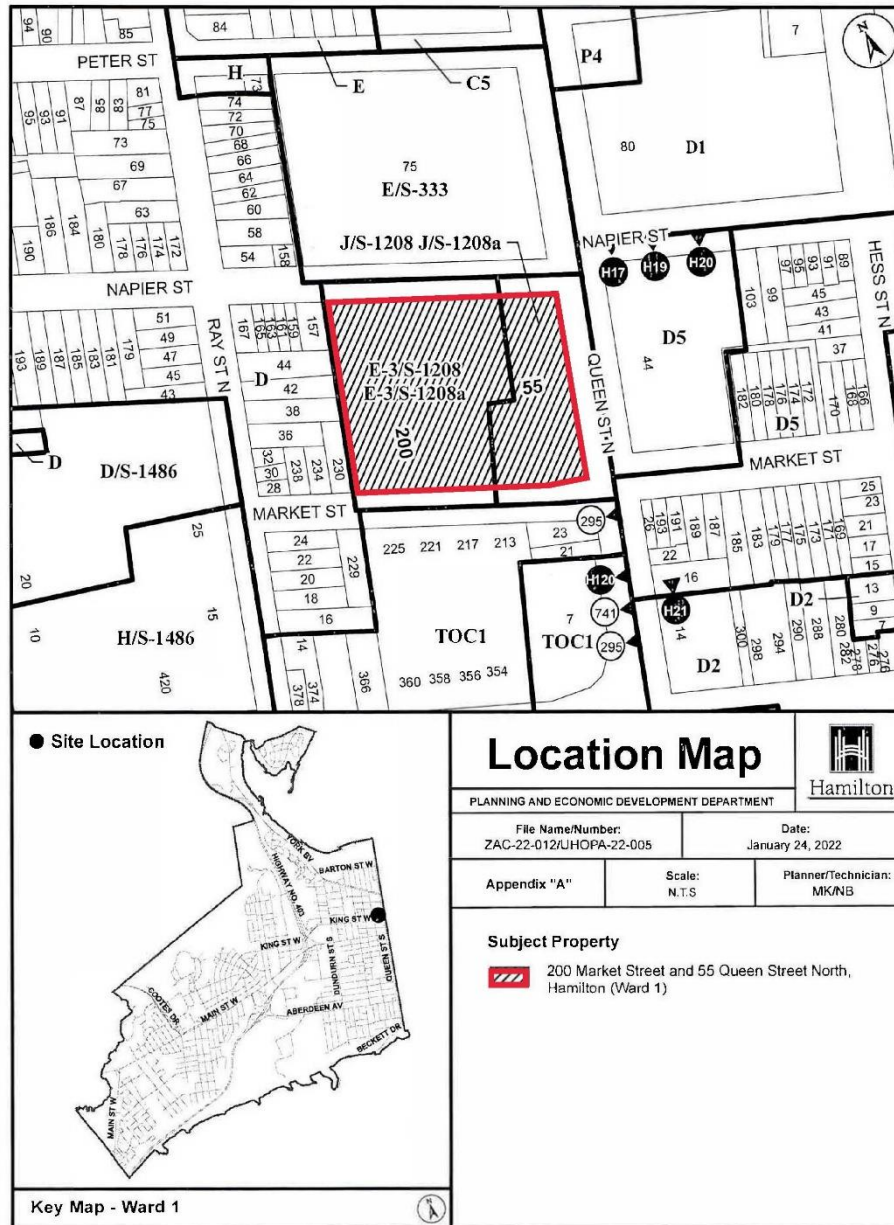


**SUBJECT PROPERTY**



**200 Market Street & 55 Queen Street North, Hamilton**





### Location Map




PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

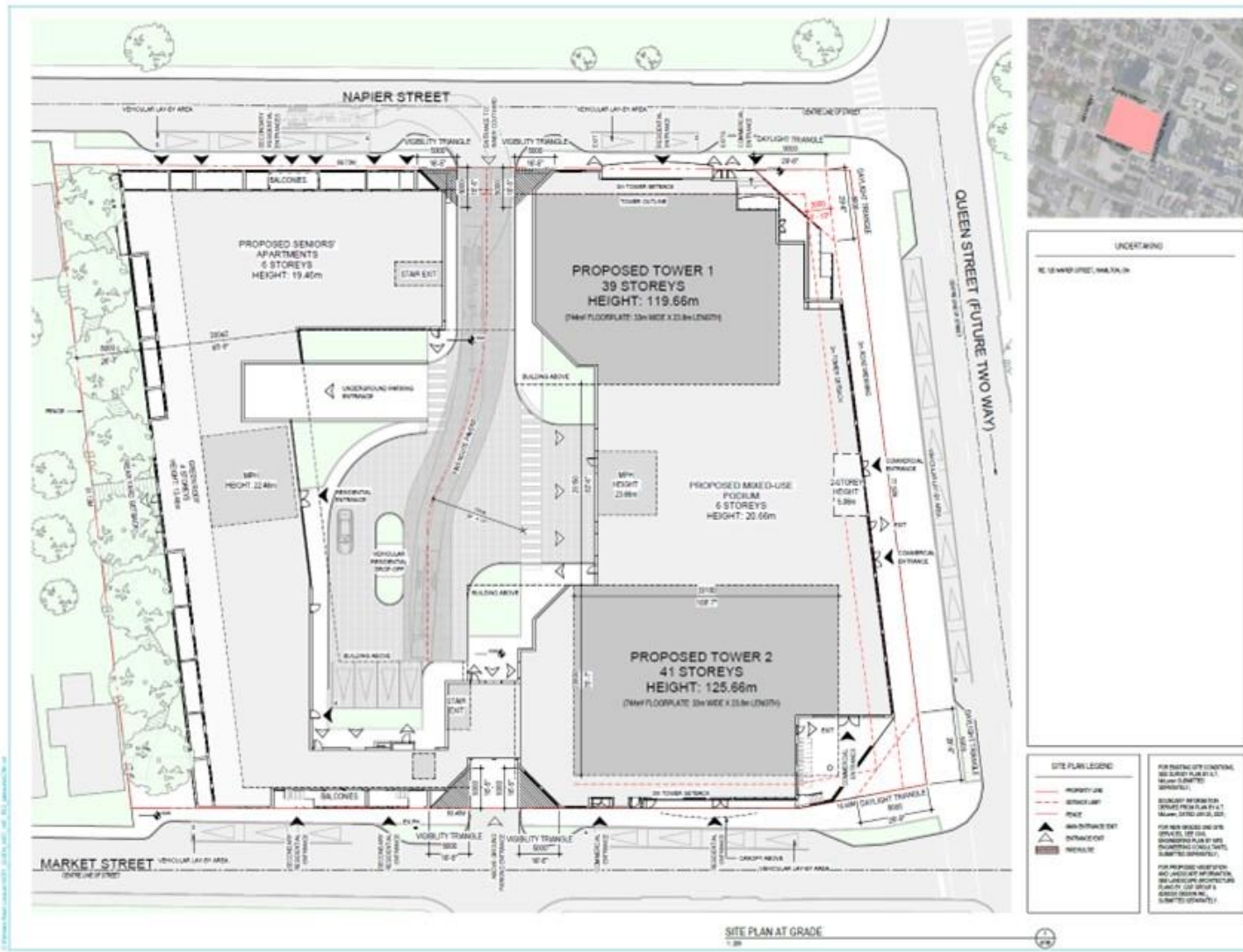
File Name/Number: ZAC-22-012/UHOPA-22-005 Date: January 24, 2022

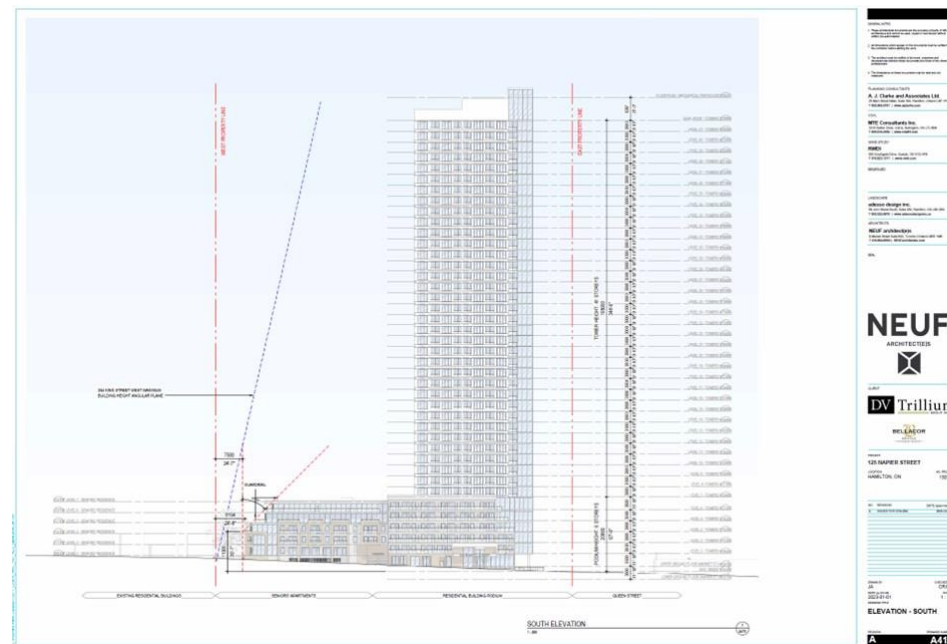
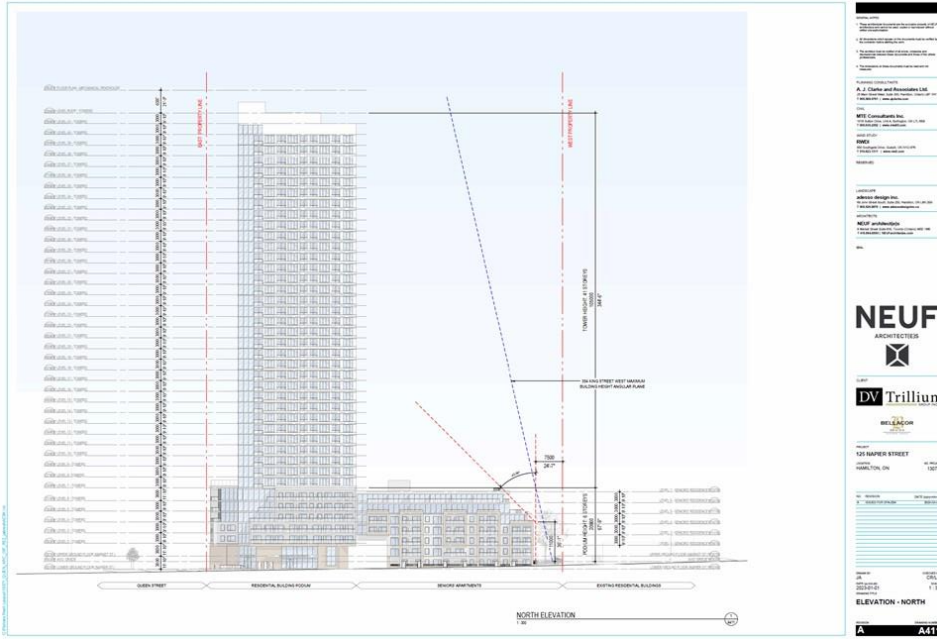
Appendix "A" Scale: N.T.S. Planner/Technician: MK/NB

**Subject Property**

 200 Market Street and 55 Queen Street North, Hamilton (Ward 1)

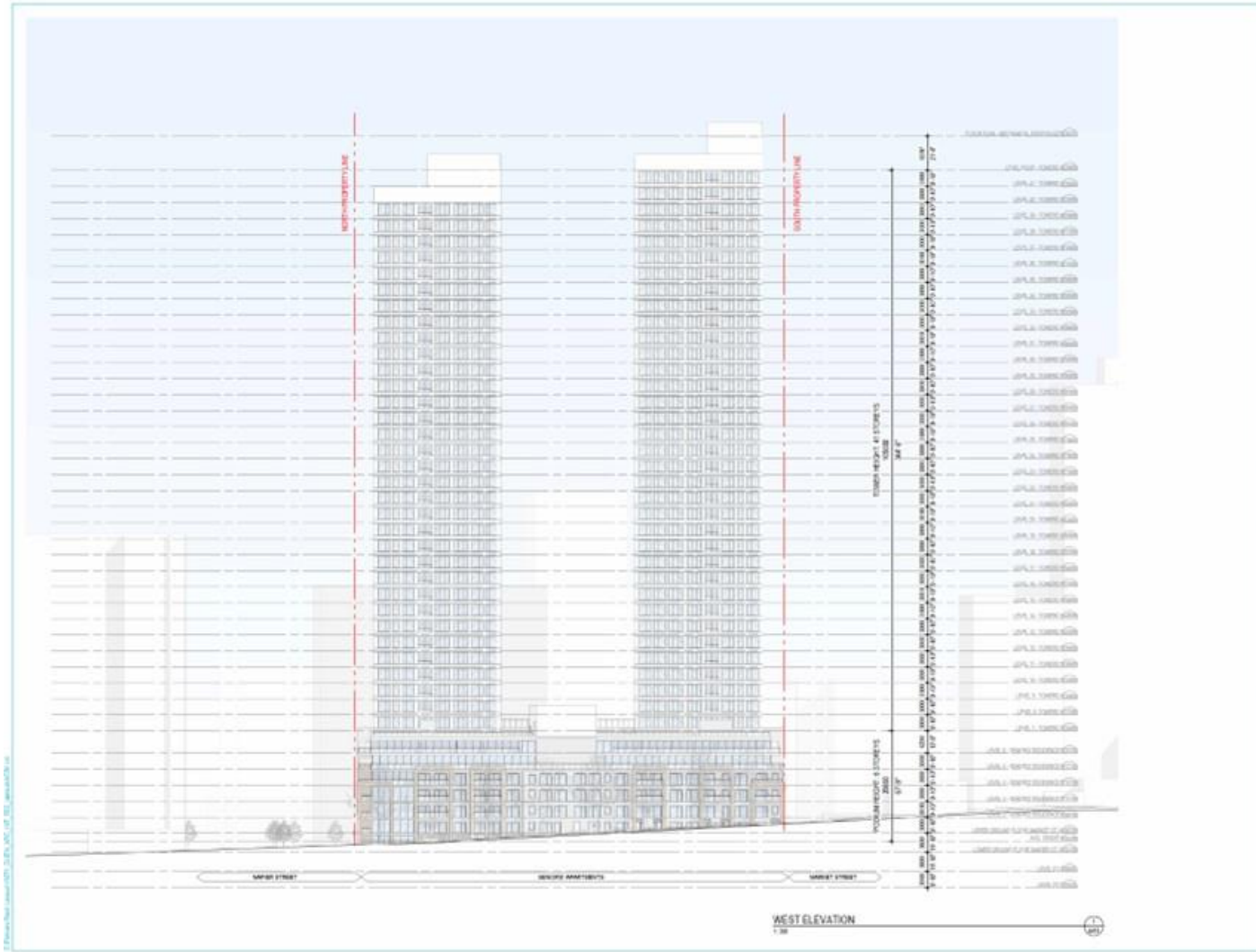




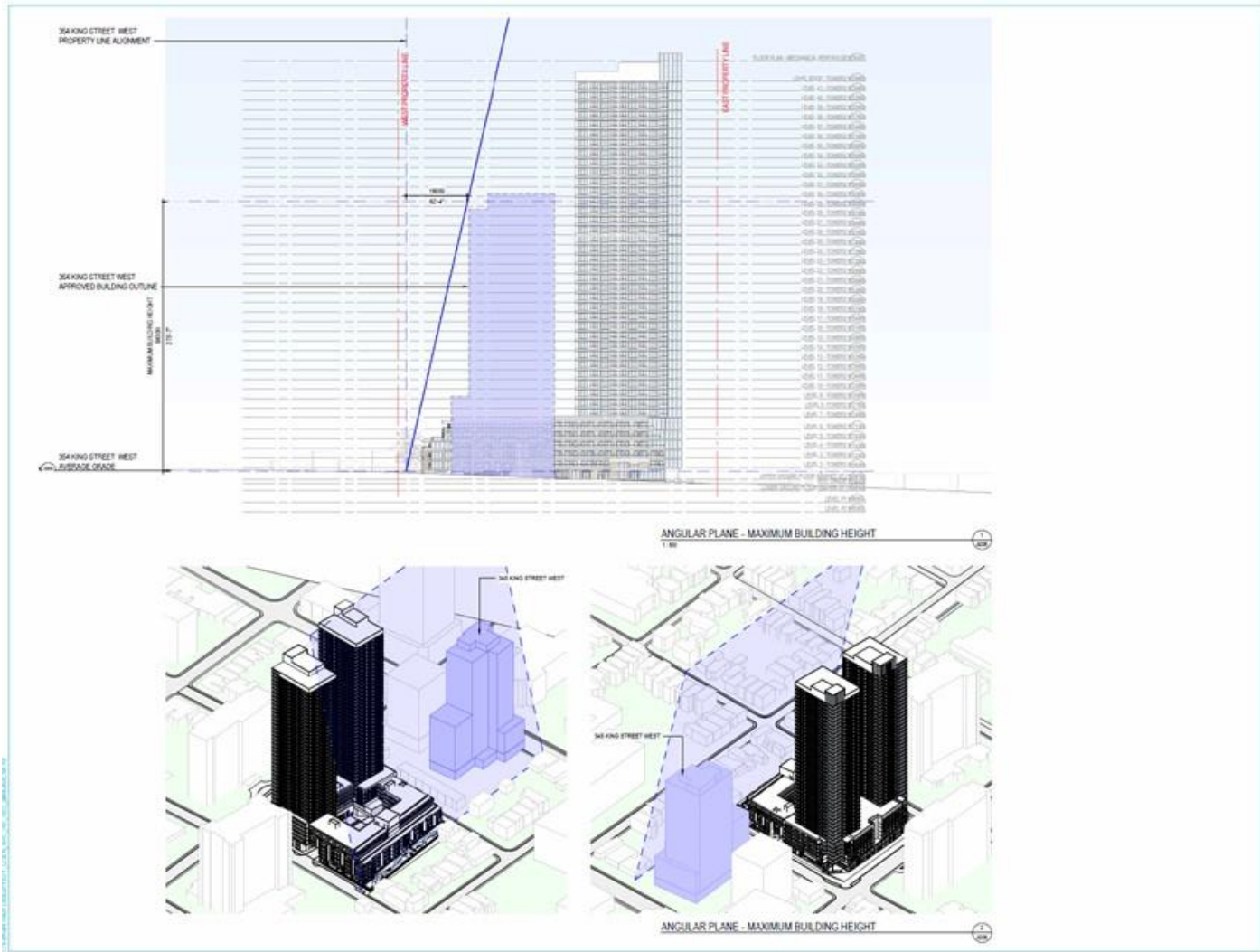








<b>PROJECT</b>	
125 NAPIER STREET	
HAMILTON, ON	
<b>CLIENT</b>	
NEUF ARCHITECTS	
<b>ARCHITECT</b>	
NEUF ARCHITECTS	
125 NAPIER STREET	
HAMILTON, ON	
<b>DATE</b>	
2023-01-01	
<b>SCALE</b>	
1:200	
<b>PROJECT NO.</b>	
A413	



**GENERAL NOTES**

- The architectural information is for informational purposes only and does not constitute a contract.
- All dimensions shall be in metric unless otherwise specified.
- The information is based on the information provided to the architect.
- The information is based on the information provided to the architect.

**PLANNING CONSULTANTS**

**A. J. Clarke and Associates Ltd.**  
 200 West Beaver Creek Rd. Toronto, Ontario M2B 1P7  
 T 416-291-1111 | www.ajclarke.com

**MTE Consultants Inc.**  
 1000 Lakeshore Blvd. W. Toronto, Ontario M6K 3L7  
 T 416-291-1111 | www.mte.com

**LANDSCAPE**

**adrian design inc.**  
 80 West Beaver Creek Rd. Toronto, Ontario M2B 1P7  
 T 416-291-1111 | www.adriandesign.com

**ARCHITECTS**

**NEUF architectes**  
 100 West Beaver Creek Rd. Toronto, Ontario M2B 1P7  
 T 416-291-1111 | www.neufarchitectes.com

---

**NEUF ARCHITECTES**

**DV Trillium**

**BELLACOR**

---

**PROJECT**  
 125 HAPER STREET  
 HAMILTON, ON

**DATE**  
 1/30/11

---

**NO. REVISIONS**

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	08/22/10

---

**DESIGNED BY** JA **CHECKED BY** CR/LK  
**DRAWN BY** 2013-01-01 **SCALE** 1/500

**MAXIMUM BUILDING HEIGHT DIAGRAM**

**PROJECT NO.** A **ARCHITECTURE** A006



Subject Site





View From Market Street North of the Site





Looking South to Napier Street



View From the Site Looking at the West Side of Queen Street South 1



View From the Site Looking at the West Side of Queen Street South 2



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5)
<b>WARD(S) AFFECTED:</b>	Ward 5
<b>PREPARED BY:</b>	James Van Rooi (905) 546-2424 Ext. 4283
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

- (a) That **Official Plan Amendment application UHOPA-24-001, by MHBC Planning Ltd. (c/o Dave Aston, Agent), on behalf of Losani Homes (Glen Echo) Ltd., Owner**, to redesignate the subject lands from “Institutional” to “Neighbourhoods” in the Urban Hamilton Official Plan to permit an eight storey multiple dwelling and three, four-storey multiple dwellings containing a total of 264 units, on lands located at 140 Glen Echo Drive, as shown in Appendix “A” attached to Report PED24071, be **DENIED** on the following basis:
- (i) That the proposed Official Plan Amendment is not consistent with the Provincial Policy Statement, does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), and does not comply with the general intent of the Urban Hamilton Official Plan as:
- (1) The proposal is premature as it has not been demonstrated that adequate infrastructure capacity is available to service the proposed development;
  - (2) It does not include a mix of unit sizes suitable for a range of household sizes within the multiple dwellings;

---

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

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

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



**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 2 of 13**

---

- (3) It results in overshadowing and blocking of light on a sensitive land use;
  - (4) It is not compatible with the surrounding area and does not enhance the character of the existing neighbourhood;
  - (5) It does not meet the intent of the function or design policies for Medium Density Residential areas in the “Neighbourhoods” designation;
  - (6) It does not meet the intent of the City’s intensification policies;
  - (7) It does not meet the intent of the City’s urban design policies; and,
  - (8) It is not considered to be good planning as the height, massing, and scale results in an overdevelopment of the site;
- (b) That **Zoning By-law Amendment application ZAC-24-004, by MHBC Planning Ltd. (c/o Dave Aston, Agent), on behalf of Losani Homes (Glen Echo) Ltd., Owner**, for a change in zoning from the Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone to a site specific Mixed Use Medium Density (C5) Zone, to permit an eight storey, 192 unit multiple dwelling, and three, four-storey multiple dwellings containing 72 units, with 277 underground parking spaces, 41 surface parking spaces, and one driveway access from Glen Echo Drive, on lands located at 140 Glen Echo Drive, as shown in Appendix “A” attached to Report PED24071, be **DENIED** on the following basis:
- (i) That the proposal is not consistent with the Provincial Policy Statement, does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), and does not comply with the general intent of the Urban Hamilton Official Plan as:
    - (1) The proposal is premature as it has not been demonstrated that adequate infrastructure capacity is available to service the proposed development;
    - (2) It does not include a mix of unit sizes suitable for a range of household sizes within the multiple dwellings;
    - (3) It results in overshadowing and blocking of light on a sensitive land use;
    - (4) It does not meet the intent of the function or design policies for Medium Density Residential areas in the “Neighbourhoods” designation;
    - (5) It does not meet the intent of the City’s intensification policies;
    - (6) It does not meet the intent of the City’s urban design policies;
    - (7) It is not compatible with the surrounding area and does not enhance the character of the existing neighbourhood; and,

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 3 of 13**

---

- (8) It is not considered to be good planning as the height, massing, and scale results in an overdevelopment of the site.

### **EXECUTIVE SUMMARY**

The subject property is municipally known as 140 Glen Echo Drive and is located on the west side of Glen Echo Drive opposite of Loyalist Drive. The subject lands were previously owned by the Hamilton-Wentworth District School Board. The new owner, Losani Homes (Glen Echo) Ltd., has applied for an Urban Hamilton Official Plan Amendment and a Zoning By-law Amendment.

The purpose of the Urban Hamilton Official Plan Amendment application is to redesignate the lands from “Institutional” to “Neighbourhoods”. The purpose of the Zoning By-law Amendment application is to change the zoning from the Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone to a site specific Mixed Use Medium Density (C5) Zone.

The effect of these applications is to permit the development of an eight storey, 192 unit multiple dwelling, and three, four-storey multiple dwellings containing 72 units, for a total of 264 dwellings units, with 277 underground parking spaces, 41 surface parking spaces and one driveway access from Glen Echo Drive.

It is the opinion of staff that the proposed Official Plan Amendment and Zoning By-law Amendment applications do not have merit and are not considered good planning and therefore cannot be supported, for the following reasons:

- The proposal is premature as the applicant has not demonstrated adequate infrastructure capacity to service the proposed development and therefore the proposal is not consistent with the Provincial Policy Statement (2020) and does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended) and the Urban Hamilton Official Plan;
- The proposed eight storey multiple dwelling is not compatible with the surrounding area and does not enhance the character of the existing neighbourhood and therefore does not comply with the general intent of the Urban Hamilton Official Plan;
- The proposal does not include a mix of unit sizes suitable for a range of household sizes and incomes and does not comply with the general intent of the Urban Hamilton Official Plan;

---

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

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

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

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 4 of 13**

---

- The proposal does not meet the intent of the function or design policies for Medium Density Residential areas in the “Neighbourhoods” designation;
- The proposal does not meet the intent of the City’s intensification policies;
- The proposal does not meet the intent of the City’s urban design policies;
- The proposed increase in building height for the multiple dwelling to 26.5 metres, coupled with the permissions of a Mixed Use Medium Density (C5) Zone, results cumulatively in an overdevelopment of the site; and,
- The proposed built form and massing of the multiple dwelling creates shadow impacts on the neighbouring sensitive land use.

**Alternatives for Consideration – See Page 13**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold a public meeting to consider an application for an Official Plan Amendment and Zoning By-law Amendment. In accordance with Section 34(10.12), if the City makes a decision on a joint Official Plan Amendment and Zoning By-law Amendment within 120 days after the receipt of the application, the City shall not refund the fee.

**HISTORICAL BACKGROUND**

<b>Application Details</b>	
Owner:	Losani Homes (Glen Echo) Ltd.
Applicant/Agent:	MHBC Planning Ltd. (c/o Dave Aston).
File Number:	UHOPA-24-001. ZAC-24-004.
Type of Applications:	Urban Hamilton Official Plan Amendment. Zoning By-law Amendment.

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 5 of 13**

<b>Application Details</b>	
Proposal:	<p>The purpose of the Official Plan Amendment is to redesignate the subject lands from “Institutional” to “Neighbourhoods” in the Urban Hamilton Official Plan.</p> <p>The purpose of the Zoning By-law Amendment is to change the zoning from the Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone to a site specific Mixed Use Medium Density (C5) Zone.</p> <p>The effect of these applications is to facilitate a development consisting of an eight storey, 192 unit multiple dwelling, and three, four-storey multiple dwellings containing 72 units, for a total of 264 dwellings units, with 277 underground parking spaces, 41 surface parking spaces, and one driveway access from Glen Echo Drive.</p> <p>The unit sizes in the multiple dwellings range from 41.9 square metres to 89.8 square metres. The multiple dwelling’s floor plans indicate a breakdown of 58 percent one bedroom units and 42 percent two bedroom units.</p> <p>The City and Hamilton-Wentworth District School Board previously had an arrangement over the use of a portion of park land encroaching on the subject lands (former school site) for park programming including a baseball diamond and basketball courts. With the sale of the former school site to the applicant, a portion of the baseball diamond and basketball court were on privately owned lands. The proposal includes underground parking within this portion of land and as such, the City will have to relocate the baseball diamond and basketball courts.</p>
<b>Property Details</b>	
Municipal Address:	140 Glen Echo Drive, Hamilton.
Lot Area:	±1.28 ha (Irregular).
Servicing:	Full municipal services.
Existing Use:	Vacant institutional building (formerly Glen Echo Public School).

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

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

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



**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 6 of 13**

<b>Documents</b>	
Provincial Policy Statement:	The proposal is not consistent with the Provincial Policy Statement (2020).
A Place to Grow:	The proposal does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
Official Plan Existing:	“Neighbourhoods” on Schedule E – Urban Structure and “Institutional” on Schedule E-1 – Urban Land Use Designations.
Official Plan Proposed:	“Neighbourhoods” on Schedule E-1 – Urban Land Use Designations.
Zoning Existing:	Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone.
Zoning Proposed:	A site specific Mixed Use Medium Density (C5) Zone.
Modifications Proposed:	<p>The following modifications are being requested to the Mixed Use Medium Density (C5) Zone:</p> <ul style="list-style-type: none"> <li>• To remove the requirement of a minimum floor elevation of 0.9 metres for a finished floor elevation of any dwelling unit;</li> <li>• To restrict the uses permitted on the lands to a Multiple Dwelling; whereas the Mixed Use Medium Density (C5) Zone also permits a variety of commercial and institutional uses;</li> <li>• To remove the maximum setback of 4.5 metres to the façade of a building and remove the maximum setback of 6 metres for a portion of a building providing an access driveway to a garage from a street line;</li> <li>• To increase the maximum building height to 26.5 metres; whereas a maximum of 22 metres is permitted by the parent Mixed Use Medium Density (C5) Zone ; and,</li> <li>• To remove the requirement for the principal entrance to be located on the façade closest to the street and remove the requirement that access to the building façade be provided directly from the public sidewalk.</li> </ul>
<b>Processing Details</b>	
Received:	January 5, 2024
Deemed Complete	January 5, 2024
Notice of Complete Application:	Sent to 88 property owners within 120 metres of the subject lands on January 19, 2024.

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

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

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

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 7 of 13**

<b>Processing Details</b>	
Public Notice Sign:	Posted January 20, 2024.
Notice of Public Meeting:	Sent to 88 property owners within 120 metres of the subject lands on April 5, 2023.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix "D" attached to Report PED24071.
Public Consultation:	The following Public Consultation was completed for the proposed development: <ul style="list-style-type: none"> <li>• One Neighbourhood Information meeting was hosted by the applicant on June 1, 2023. The applicant provided a comment and response summary of the Neighbourhood Information Meeting (attached as Appendix "F" to Report PED24071).</li> </ul>
Public Comments:	13 letters / emails expressing concern were received (see Appendix "E" attached to Report PED24071).
Processing Time:	103 days from receipt of application.

### Existing Land Use and Zoning

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	Institutional (vacant building)	Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone
<b>Surrounding Land Uses:</b>		
North	Public secondary school	Community Institutional (I2) Zone
South	Public open space	Neighbourhood Park (P1) Zone
East	Single detached dwellings	Low Density Residential (R1) Zone and "C/S-1822" (Urban Protected Residential, etc.) District, Modified
West	Public open space	Neighbourhood Park (P1) Zone

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law  
Amendment for Lands Located at 140 Glen Echo Drive, Hamilton  
(PED24071) (Ward 5) - Page 8 of 13**

---

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the  
Greater Golden Horseshoe (2019, as amended)**

A full policy review has been provided for the Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended) in Appendix "C" attached to Report PED24071.

In summary, the proposed development has not demonstrated that there is adequate infrastructure capacity to service the proposed development and is considered premature. The municipal sewer capacity analysis in The Functional Servicing and Stormwater Management Report prepared by S. Llewellyn and Associated Ltd, dated December 21, 2023, reveals that the municipal sewer system is at capacity under the existing condition. The proposed development is expected to exacerbate this surcharge condition. Hamilton Water does not support the subject development until downstream sewers are upgraded to provide the proper service level for the service area.

The applicant has also not demonstrated what green infrastructure and sustainable design elements are to be implemented that will mitigate and adapt to the impacts of a changing climate, improve resilience, reduce greenhouse gas emissions, and contribute to environmental sustainability. Furthermore, the proponent has not demonstrated how the proposal will integrate green infrastructure and appropriate low impact development to help adapt to the impacts of a changing climate.

Therefore, the proposal is not consistent with the Provincial Policy Statement (2020) and does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

**Urban Hamilton Official Plan**

The subject lands are identified as "Neighbourhoods" on Schedule E – Urban Structure and designated "Institutional" on Schedule E-1 – Urban Land Use Designations. The applicant is proposing to redesignate the lands to "Neighbourhoods".

The applicant's proposal was prepared based on the "High Density Residential" policies of Volume 1 in the Urban Hamilton Official Plan. A detailed analysis of the applicable Urban Hamilton Official Plan (Volume 1) policies is included in the Summary of Policy Review attached as Appendix "C" to Report PED24071. Staff have confirmed through the review that the "Medium Density Residential" policies are applicable to the proposal, given the height and scale proposed.

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law  
Amendment for Lands Located at 140 Glen Echo Drive, Hamilton  
(PED24071) (Ward 5) - Page 9 of 13**

---

Policy E.3.5.1 states that the Medium Density Residential areas of the “Neighbourhoods” designation are characterized by multiple dwelling forms located on the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting onto collector roads. The proposal is located in the interior of the neighbourhood and does not have frontage onto a collector road. The proposal does not comply with the functional policies of the “Medium Density Residential” category.

Policy E.3.5.8 contains the policy criteria that must be met in order for building height to be increased beyond six storeys, up to a maximum of 12 storeys. Policy E.3.5.8 a) indicates that development shall provide for a mix of unit sizes to accommodate a range of household sizes and income levels to be implemented through the Zoning By-law. Staff find the proposal does not comply with this policy as there are no three bedroom units proposed, nor is there a provision provided in the amending by-law for a mix of unit sizes. The multiple dwelling’s floor plans provided to date indicate a breakdown of 58 percent one bedroom units and 42 percent two bedroom units. In addition, staff find that no further information has been provided to address Policy E.3.5.8 b), which requires that the development incorporate sustainable building and design principles.

Staff’s review included the neighbouring property to the west which is considered public open space. Policy E.3.5.8 c) indicates that the height, orientation, design, and massing of a building shall not unduly overshadow or block light on adjacent sensitive lands uses, the public realm and outdoor private amenity areas. The Shadow Impact Study dated December 1, 2023, prepared by MHBC Planning Ltd. identifies shadow impacts on Glendale Park to the west. The City’s Sun-Shadow Study guidelines categorizes parks as common amenity area and indicates that a minimum of 50 percent sun coverage at all times of the day measured on March 21 is required. The Shadow Impact Study demonstrates that between the hours of 8:26 a.m. to 9:26 a.m. on March 21, one of the parks is more than 50 percent shadowed (55 percent). The shadow impacts on the park do not comply with Policy E.3.5.8 c).

Policy E.3.5.8 d) indicates that the implementing Zoning By-law may include angular plane requirements to set out an appropriate transition and stepping back of heights to adjacent areas designated “Neighbourhoods”. While the adjacent lands to the north are designated “Institutional”, the height, massing, and arrangement of the multiple dwelling in relation to the sensitive land use (secondary public school site) to the north has not been adequately addressed, and the proposal does not comply with the Residential Intensification policies of the Urban Hamilton Official Plan (policies B.2.4.1.4 and B.2.4.2.2).

Policy E.3.5.9 a) requires that developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the



**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 10 of 13**

---

development may gain access to the collector or major or minor arterial road from a local road only if a small number of low density residential dwellings are located on that portion of the local road. The subject lands do not have direct access onto a collector road. The proposal would therefore need to gain access to a collector road (Nash Road) from two local roads (Glen Echo Drive and Rainbow Drive). Approximately 32 low density residential dwellings front onto Glen Echo Drive and 10 front onto Rainbow Drive. It is Staff's opinion that this is not considered a small number of low density residential dwellings. Accordingly, the proposal does not comply with the design policies of the "Medium Density Residential" category.

The surrounding area is made up of low rise built forms of one to two storey single detached dwellings and two to three storey institutional buildings, and there are no other buildings exceeding three storeys in the immediate surrounding area. The proposal is not compatibly integrated into the surrounding area in terms of use, scale, form, and character.

The applicant has also not demonstrated that there is adequate servicing capacity to service the proposed development and the proposal is considered premature. The municipal sewer capacity analysis in The Functional Servicing and Stormwater Management Report prepared by S. Llewellyn and Associated Ltd, dated December 21, 2023, reveals that the municipal sewer system is at capacity under the existing condition. The proposed development is expected to exacerbate this surcharge condition. Hamilton Water does not support the subject development until downstream sewers are upgraded to provide the proper service level for the service area.

Therefore, the proposed development does not comply with the policies of the Urban Hamilton Official Plan and staff do not support the proposed Official Plan Amendment.

### **City of Hamilton Zoning By-law No. 05-200**

The proposed Zoning By-law Amendment is for a change in zoning from the Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone to a site specific Mixed Use Medium Density (C5) Zone. The applicant has requested a number of site specific modifications to the Mixed Use Medium Density (C5) Zone which are summarized in the Report Fact Sheet on page 6 of this Report. Analysis of the Zoning By-law Amendment is provided below in the Analysis and Rationale for Recommendation section.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal does not have merit and cannot be supported for the following reasons:

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 11 of 13**

---

- The proposal is premature as the applicant has not demonstrated adequate infrastructure capacity to service the proposed development and therefore the proposal is not consistent with the Provincial Policy Statement (2020), does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), and does not comply with the applicable servicing policies of the Urban Hamilton Official Plan;
- The proposed eight storey multiple dwelling is not compatible with the surrounding area and does not enhance the character of the existing neighbourhood and therefore does not comply with the general intent of the Urban Hamilton Official Plan;
- The proposal does not include three bedroom units and therefore does not include a mix of unit sizes suitable for a range of household sizes and incomes and does not comply with the general intent of the Urban Hamilton Official Plan;
- The proposal does not meet the intent of the function or design policies for Medium Density Residential areas in the “Neighbourhoods” designation;
- The proposal does not meet the intent of the City’s intensification policies;
- The proposal does not meet the intent of the City’s urban design policies;
- The proposed increase in building height for the multiple dwelling to 26.5 metres, coupled with the permissions of a Mixed Use Medium Density (C5) Zone, results cumulatively in an overdevelopment of the site; and,
- The proposed built form and massing of the multiple dwelling creates shadow impacts on the neighbouring sensitive land use.

## 2. Official Plan Amendment

The subject lands are designated “Institutional” in the Urban Hamilton Official Plan. The Official Plan Amendment proposes to redesignate the subject lands from “Institutional” to “Neighbourhoods” in the Urban Hamilton Official Plan to facilitate the proposed development. Staff have evaluated the proposed development under the “Medium Density Residential” policies of Volume 1 of the Urban Hamilton Official Plan. A detailed evaluation of the policies of the Urban Hamilton Official Plan is provided in the Summary of Policy Review in Appendix “C” attached to Report PED24071.

---

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

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

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

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 12 of 13**

---

It is staff's opinion that the proposal fails to achieve an appropriate transition in height to the adjacent school site, fails to contribute to a range and mix of unit sizes, results in a shadow impact on the neighbouring property that is contrary to the City's Sun/Shadow guidelines, does not meet the intent of the function or design policies for Medium Density Residential areas, and does not provide sufficient information to ensure adequate infrastructure capacity.

As per Policy E.3.5.8, a building may be higher than six storeys, provided a proposal demonstrates all of the following: a mix of unit sizes, sustainable building design, no undue shadow impact, stepbacks from adjacent areas designated "Neighbourhoods", and stepbacks from the street. The proposed development is providing 58 percent one bedroom units and 42 percent two bedroom units based on the floor plans provided and is not providing any three bedroom units. The applicant has not provided further information on sustainable building design, and a sensitive land use (Glendale Park) will be impacted by overshadowing and blocking of light.

The proposal is not compatible with the surrounding area and does not enhance the character of the existing neighbourhood in that the scale, height and massing of the eight storey multiple dwelling constitutes an overdevelopment of the site.

Therefore, the proposal does not comply with the Urban Hamilton Official Plan and staff do not support the proposed amendment.

### 3. Zoning By-law Amendment

The subject lands are zoned Community Institutional (I2) Zone and Neighbourhood Park (P1) Zone. The Zoning By-law Amendment proposes to change the zoning to a site specific Mixed Use Medium Density (C5) Zone.

The proposed Zoning By-law Amendment is seeking zoning modifications to permit only multiple dwellings as a use, remove the requirement for dwelling units to be 0.9 metres above finished floor elevation, allow for increased maximum building height, and remove the requirement for principal entrances to be located closest to the street line.

In the opinion of staff, the proposed modifications do not comply with the general intent of the Urban Hamilton Official Plan as outlined in the Summary of Policy Review in Appendix "C" attached to Report PED24071. As noted above, the proposed Official Plan Amendment is not appropriate and is not supported by staff. Therefore, staff do not support the proposed Zoning By-law Amendment.

---

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

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

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

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 140 Glen Echo Drive, Hamilton (PED24071) (Ward 5) - Page 13 of 13**

---

**ALTERNATIVES FOR CONSIDERATION**

- 1) Should the applications be approved, staff be directed to prepare the Official Plan Amendment and amending Zoning By-law Amendment consistent with the submitted concept plans attached as Appendix “B” to Report PED24071 with the inclusion of a Holding Provision to address matters, including, but not limited to the submission of a functional servicing report, a neighbourhood traffic calming options report, and any other necessary agreements to implement Council’s direction.

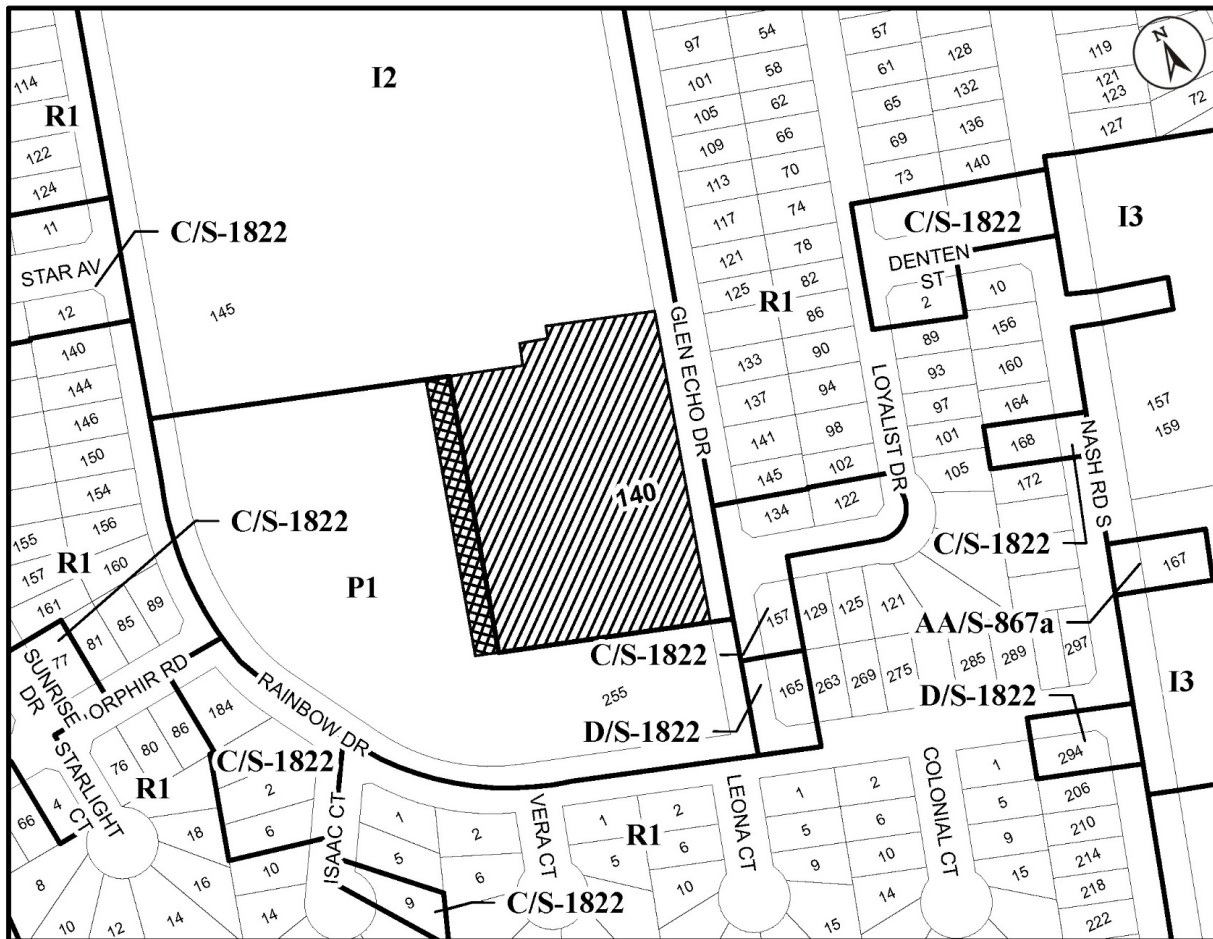
**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED24071 – Location Map  
Appendix “B” to Report PED24071 – Concept Plan  
Appendix “C” to Report PED24071 – Summary of Policy Review  
Appendix “D” to Report PED24071 – Department and Agency Comments  
Appendix “E” to Report PED24071 – Public Comments  
Appendix “F” to Report PED24071 – Applicant Summary and Responses to Public

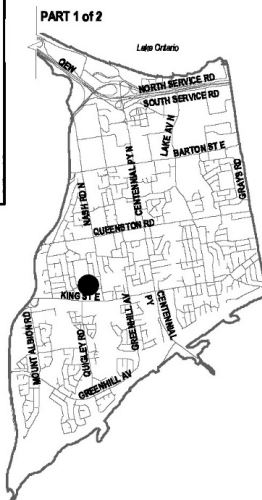
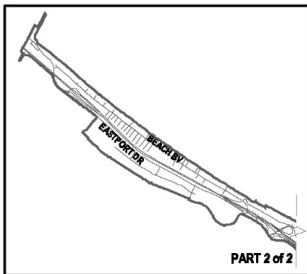
JVR/sd



Appendix "A" to Report PED24071  
Page 1 of 1



● Site Location



Key Map - Ward 5

## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC--24-004/UHOPA-24-001

Date:  
April 4, 2024

Appendix "A"

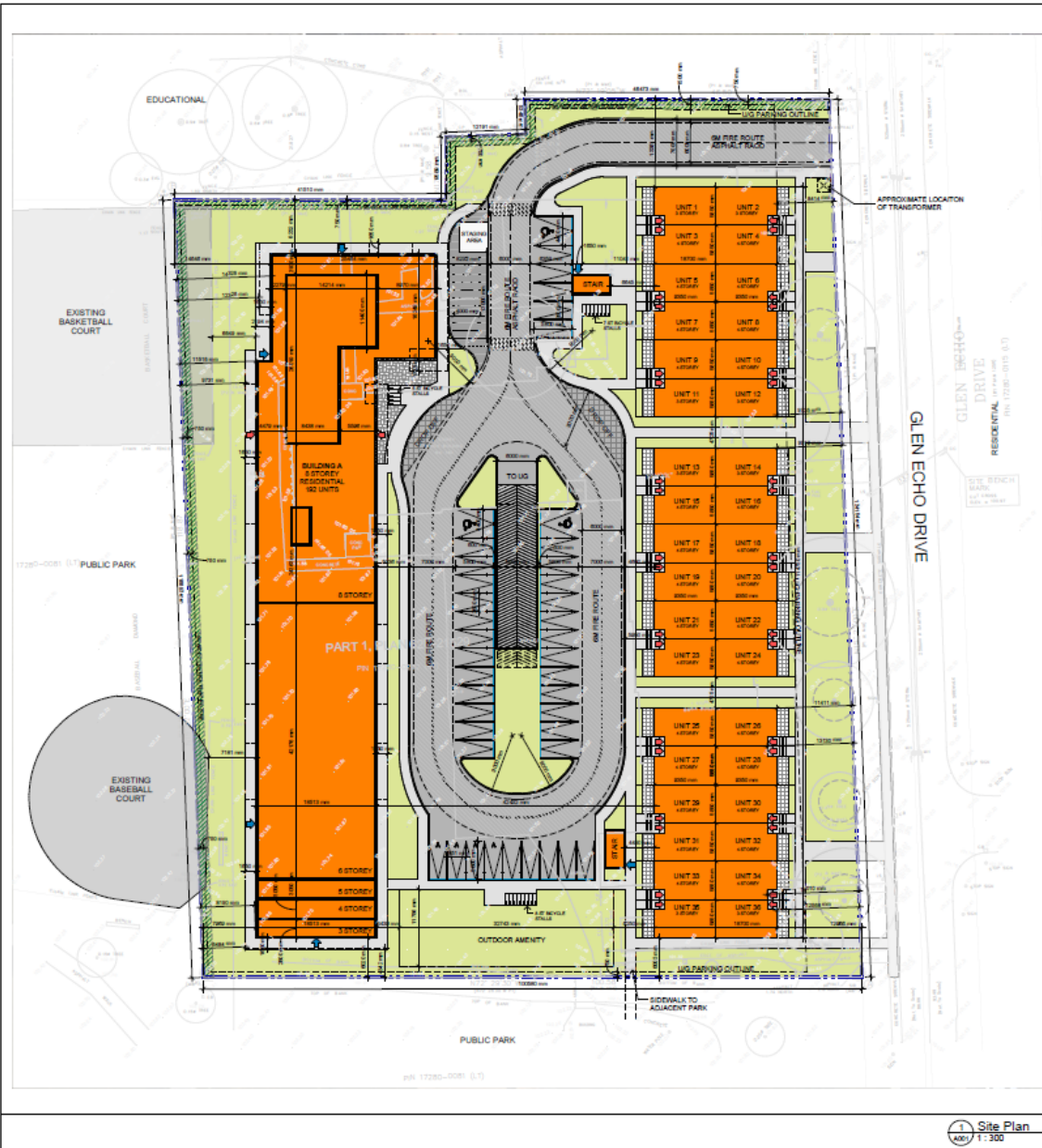
Scale:  
N.T.S

Planner/Technician:  
JVR/NB

### Subject Property

140 Glen Echo Drive, Hamilton (Ward 5)

- Change in Zoning from Community Institutional (I2) Zone to Mixed Use Medium Density (C5-XXX) Zone
- Change in Zoning from Neighbourhood Park (P1) Zone to Mixed Use Medium Density (C5-XXX) Zone



Site Plan  
 ADV 1:300

PARKING SCHEDULE - FLOOR		
Type	DESCRIPTION	COUNT
LV1-1	20' x 2.5m	34
20' x 2.5m - VISITOR	2.5m x 2.5m	4
20' x ACC - 5.9m x 4.4m	2.5m x 4.4m	3
LV1-1		41
TO UG PARKING		
20' x 2.5m x 2.5m	2.5m x 2.5m	210
20' x 2.5m x 2.5m - VISITOR	2.5m x 2.5m	42
20' x ACC - 5.9m x 4.4m	2.5m x 4.4m	2
TO UG PARKING - 207		216

SITE STATISTICS			
DESCRIPTION	AREA (MM)	AREA (SF)	PERCENTAGE
BUILDING FOOTPRINT	3,074.90 m <sup>2</sup>	42,705 s.f.	31.1%
BUILDING FOOTPRINT	3,074.90 m <sup>2</sup>	42,705 s.f.	31.1%
HARD LANDSCAPE	2,714.01 m <sup>2</sup>	29,271 s.f.	21.2%
CONCRETE	2,600.00 m <sup>2</sup>	28,000 s.f.	20.7%
PAVING	114.01 m <sup>2</sup>	1,271 s.f.	0.9%
GRASS	1,114.01 m <sup>2</sup>	12,000 s.f.	8.8%
BIODIVERSITY	1,600.00 m <sup>2</sup>	17,200 s.f.	12.6%
BIODIVERSITY	1,600.00 m <sup>2</sup>	17,200 s.f.	12.6%
SOFT LANDSCAPE	4,982.26 m <sup>2</sup>	53,738 s.f.	39.5%
LANDSCAPE	3,817.76 m <sup>2</sup>	41,084 s.f.	29.9%
LANDSCAPE	3,817.76 m <sup>2</sup>	41,084 s.f.	29.9%
LANDSCAPE	1,164.50 m <sup>2</sup>	12,554 s.f.	9.1%
PROPERTY	12,794.36 m <sup>2</sup>	137,610 s.f.	100.0%

UNIT MIX			
Name	Area	Count	% BY COUNT
1 SD	451 s.f.	655	47%
2 SD	540 s.f.	567	41%
STACK TOWNHOUSE - LOWER UNIT	565 s.f.	38	3%
STACK TOWNHOUSE - UPPER UNIT	569 s.f.	38	3%
		1368	100%

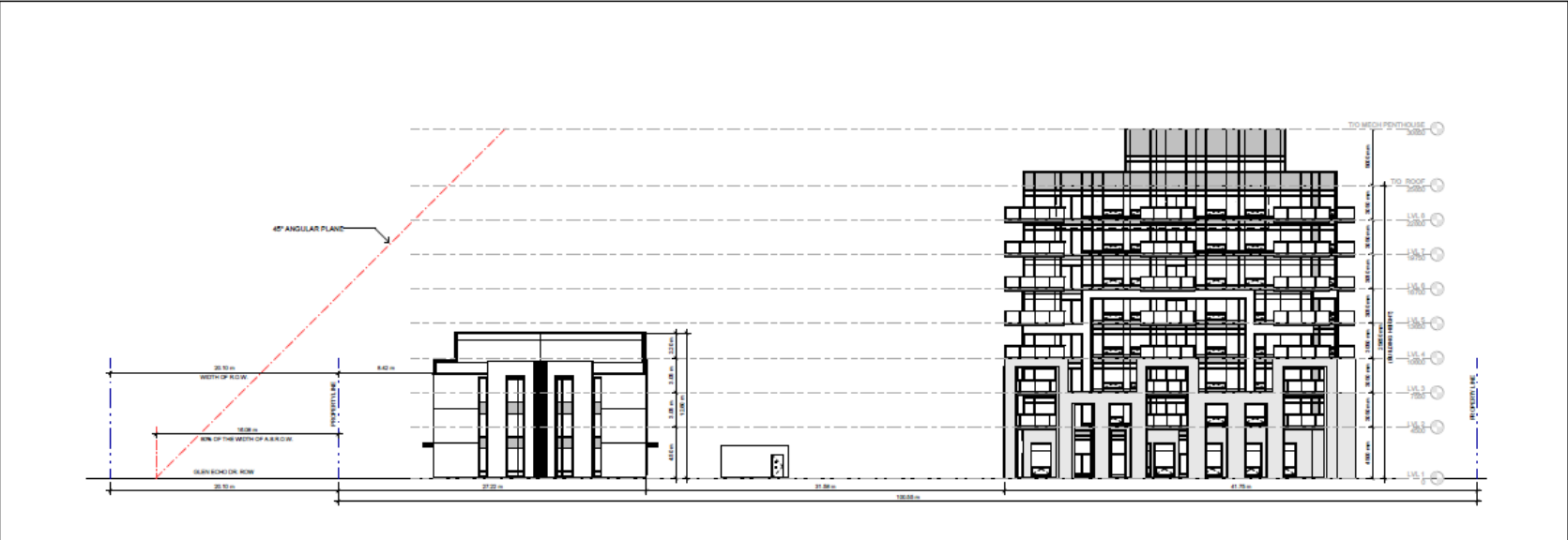
AMENITY SCHEDULE		
BUILDING	Name	Area
	BALCONY	19833 s.f.
	INDOOR AMENITY	1923 s.f.
	OUTDOOR AMENITY	3938 s.f.
	PATIO	2036 s.f.

SITE STATISTICS		
Proposed Zoning	Mixed Use Medium Density Zone with Special Provisions (M-UX)	
Provision	Required (R)	Provided
Lot Area	1250 sq. ft.	1250 sq. ft.
Residential Units	-	354 units
Commercial GFA	-	-
Building Height (max)	22 m (max)	Townhouse Max: 5.14 m Townhouse Min: 12.5 m Apartment Max: 7.5 m Apartment Min: 20.5 m
Facade Height	7.5 m (min)	9.14 m (min)
Facade Width (min. % of front of site)	40%	55.5%
Front Yard	3m (min) 5m (max)	5m (min) 14.5m (max)
Side Yard (min.)	7.5 m (min)	7.5 m
Street fronting a Residential/Industrial Zone or residential use (min.)	7.5 m (min)	8 m
Amenity Area (min.)	Min: 50 sqm 4 sqm unit for each unit or equal to 50 sqm of GFA Min: 145 sqm 5 sqm unit for unit greater than 50 sqm of GFA	Indoor = 175.05 m <sup>2</sup> Outdoor = 2449.76 m <sup>2</sup>
Parking (Residential/Industrial Zone (min))	1.5m (min)	1.5m
Parking (Residential/Dwelling minimum)	Multiple dwelling units greater than 50sqm: 0.3 spaces per unit 20 units less than 50sqm: 20 x 0.3 = 6 spaces	315 spaces provided
Parking (Residential/Dwelling MAXIMUM)	Multiple dwelling units greater than 50sqm: 344 units above 50sqm: units 14 x 0.7 spaces per unit 14 x 0.7 spaces = 9.8 spaces therefore 9 spaces per unit 30 x 0.3 spaces = 9.0 spaces therefore 30 spaces 514 units = 1.0 per unit (514 x 1.0) = 514 spaces 233 total parking spaces required	
Parking (Residential/Dwelling MAXIMUM)	1.25 per unit Maximum of 330 spaces permitted	
Parking (Commercial)	-	-
Parking (Total)	330 spaces	330 spaces
Accessible Parking	201-300 spaces required minimum 2 spaces + 2% of the total number of required parking spaces determination 2% of 330 = 6.6 Rounded to 7 spaces 2 + 7 = 9 total spaces required	6 spaces
Bicycle Parking - Long Term (1.5m x 0.6m)	-	-
Bicycle Parking - Short Term	30	30
Special Provisions Requested	-	-

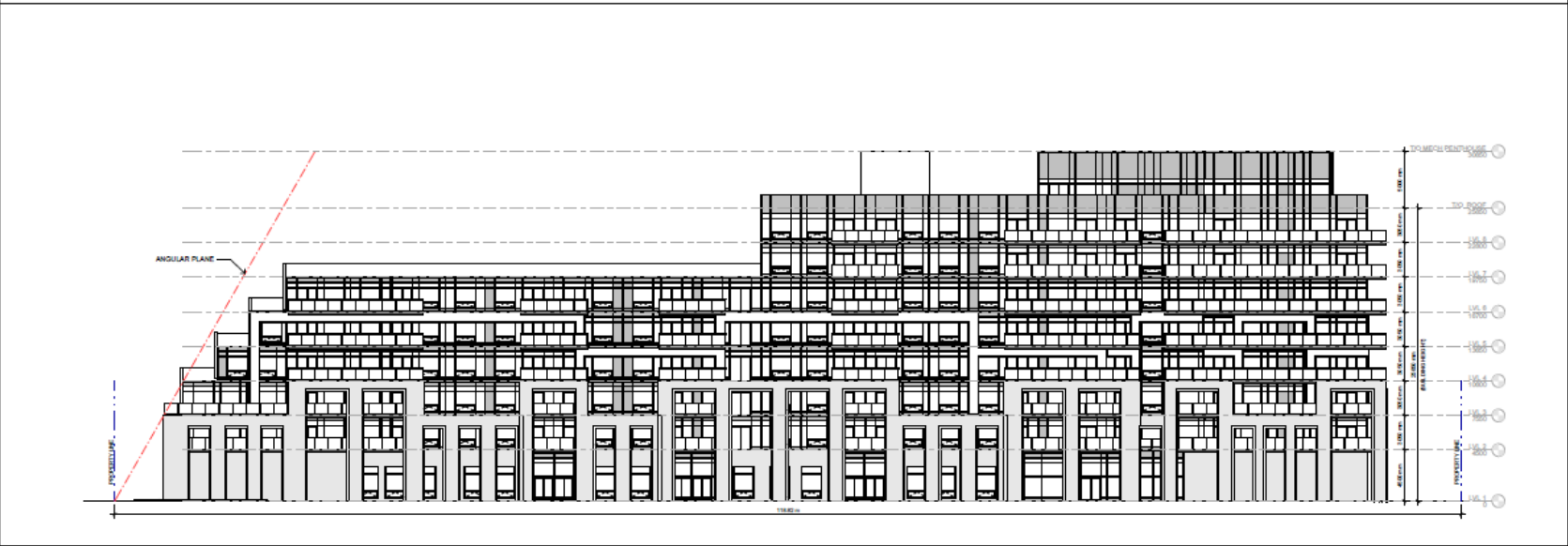


U/G P1  
 1:300

PARKING SCHEDULE - FLOOR		
Type	DESCRIPTION	COUNT
LVL. 0		
BP	5.8m x 2.9m	54
BP	5.8m x 2.9m - VISITOR	4
BP	4.0m x 4.4m	1
LVL. 1 #1		
TOTAL PARKING		
BP	5.8m x 2.9m	210
BP	5.8m x 2.9m - VISITOR	62
BP	4.0m x 4.4m	1
TOTAL PARKING		273
		318



2 NORTH ELEVATION - BUILDING A  
ASU 1:175



1 EAST ELEVATION - BUILDING A  
ASU 1:175

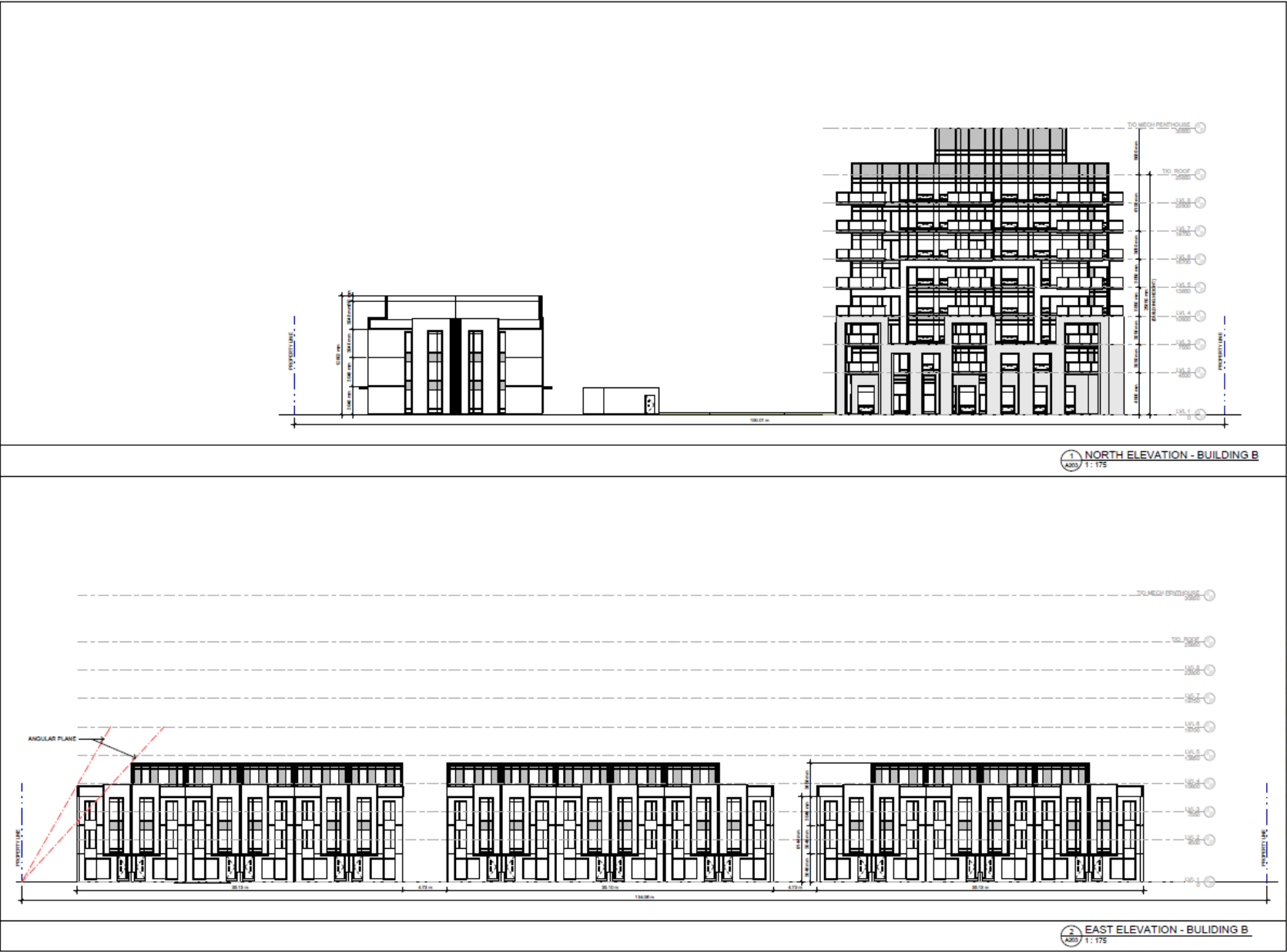


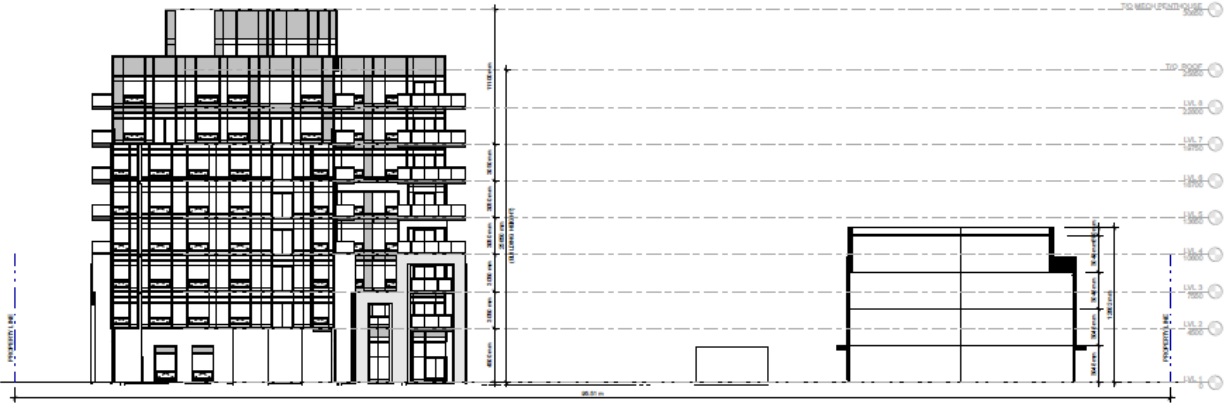


1 SOUTH ELEVATION - BUILDING A  
1:175



2 WEST ELEVATION - BUILDING A  
1:175

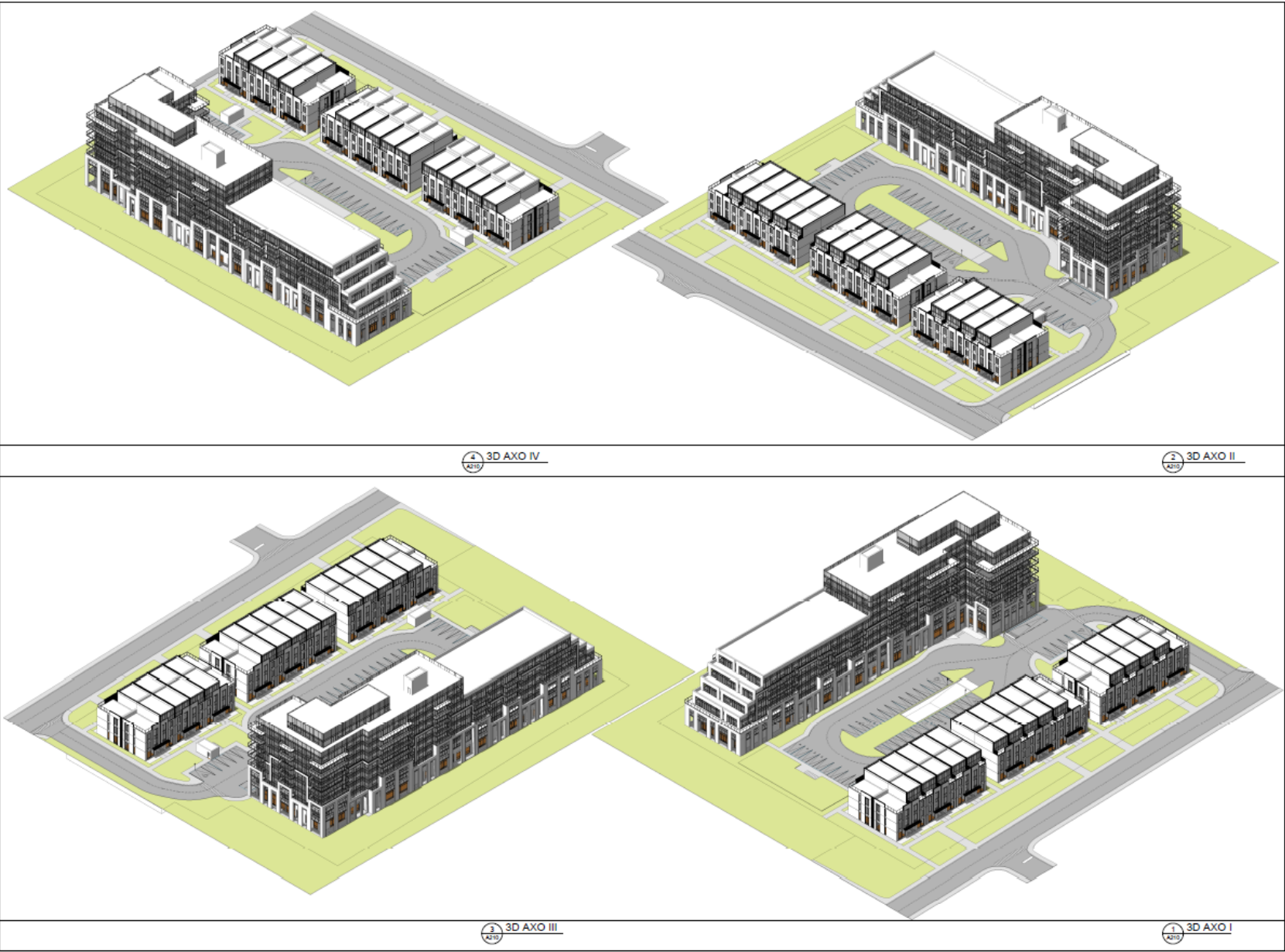




1 SOUTH ELEVATION - BUILDING B  
1:175



2 WEST ELEVATION - BUILDING B  
1:175





## SUMMARY OF POLICY REVIEW

The following policies, amongst others, apply to the proposal.

<b>Provincial Policy Statement (2020)</b>		
<b>Theme and Policy</b>	<b>Summary of Policy or Issue</b>	<b>Staff Response</b>
<b>Management of Land Use</b>  Policy: 1.1.1 a) to f)	Healthy, liveable, and safe communities are, in part, developed through the appropriate management of land use patterns.	<p>The development proposes an eight storey, 192 unit multiple dwelling, three, four-storey multiple dwellings containing 72 units, with 277 underground parking spaces, 41 surface parking spaces, with one driveway access from Glen Echo Drive in the interior of the neighbourhood on a local road.</p> <p>The proposal is not consistent with these policies.</p>
<b>Management of Land Use</b>  Policy: 1.1.1 g)	Ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs.	<p>The provided sanitary capacity analysis within the Functional Servicing Report, prepared by S. Llewellyn and Associated Ltd, dated December 21, 2023, fails to address if there is sufficient available capacity within the existing sanitary sewer/trunk sewer systems along Nash Road North from Queenston Road to the Red Hill Valley Ramp. The proponent has not demonstrated that there is or will be necessary infrastructure to service the proposal.</p> <p>The proposal is not consistent with this policy.</p>
<b>Management of Land Use</b>  Policy: 1.1.1 i)	Preparing for the regional and local impacts of a changing climate.	<p>The applicant has not included or identified aspects of the proposal that address a changing climate using building design, materials, and green technology/infrastructure, etc.</p> <p>The proposal is not consistent with this policy.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<b>Settlement Area</b>  Policy: 1.1.3.1	Settlement areas shall be the focus of growth and development.	The proposal provides growth and development within a settlement area.  The proposal is consistent with this policy.
Policy: 1.1.3.2	Land use patterns within settlement areas shall be based on densities and a mix of land uses which: <ul style="list-style-type: none"> <li>a) Efficiently use land and resources;</li> <li>b) Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;</li> <li>c) Minimize negative impacts to air quality and climate change, and promote energy efficiency;</li> <li>d) Prepare for the impacts of a changing climate;</li> <li>e) Support active transportation;</li> <li>f) Are transit-supportive, where transit is planned, exists, or may be developed; and,</li> <li>g) Are freight-supportive.</li> </ul>	With regards to development being based on densities and a mix of land uses that are appropriate for infrastructure, the municipal sewer capacity analysis in the Functional Servicing Report, prepared by S. Llewellyn and Associated Ltd, reveals that the municipal sewer system is at capacity under the existing condition. The proposed development is expected to exacerbate this surcharge condition. As a result, Hamilton Water cannot support the subject development until downstream sewers are upgraded to provide the proper service level for the servicing area. The proposal has not addressed how impacts to climate change and energy efficiency promotion are to be addressed. The proposal is not within comfortable walking distance to higher order transit (nearly 0.8 km from planned LRT route stop). The proposal is within comfortable walking distance to HSR service along Nash Road.  The proposal is not consistent with this policy.
Policy 1.1.3.3	Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.	The proposal is transit supportive by providing intensification on a local road, however the Official Plan directs that the appropriate location for transit supportive developments such as Medium Density or High Density land uses should be located in proximity to major and/or minor arterials or collector roads. As such, the proposal is not in considered an appropriate location. The proposal provides for a range of housing options; however the existing infrastructure would require infrastructure upgrades to facilitate the increase in density.  The proposal is not consistent with this policy.

Theme and Policy	Summary of Policy or Issue	Staff Response
Policy 1.1.3.4	Appropriate development standards should be promoted which facilitate intensification, redevelopment, and compact form, while avoiding or mitigating risks to public health and safety.	<p>The proposed surface level ponding on the parking garage deck is a potential hazard for vehicular and pedestrian traffic. The Stormwater storage volume shall be entirely controlled within the stormwater management tank.</p> <p>The proposal is not consistent with this policy.</p>
<b>Noise</b>  Policy: 1.2.6.1	Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.	<p>A Noise Feasibility Study was submitted by HGC Engineering Acoustical Consulting Inc. dated November 21, 2023, and indicates that the recommended noise control measures satisfy the Ministry of the Environment, Conservation and Parks requirements.</p> <p>The proposal is consistent with this policy.</p>
<b>Housing</b>  Policy 1.4.3	<p>Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents by:</p> <ul style="list-style-type: none"> <li>a) Setting minimum targets for affordable housing;</li> <li>b) permitting and facilitating:               <ul style="list-style-type: none"> <li>1. all housing options required to meet residents needs including special needs and demographic changes; and</li> <li>2. all types of residential intensification, and redevelopment in accordance with policy 1.1.3.3;</li> </ul> </li> <li>c) directing new housing to areas with sufficient infrastructure and public services;</li> <li>d) promoting densities for new housing which efficiently use land, resources, infrastructure and</li> </ul>	<p>Policy b) refers to having an appropriate range and mix of housing options to meet social, health, economic and well-being requirements of current and future residents. The multiple dwellings do not include three bedroom units. The multiple dwelling's floor plans indicate a breakdown of 58 percent one bedroom units and 42 percent two bedroom units. Providing larger units with additional bedrooms allows for larger households with varying incomes to potentially be accommodated within the multiple dwelling built form.</p> <p>The proposal is not directed to an appropriate location where infrastructure is available to support the current and projected needs as infrastructure upgrades would be required. Furthermore, the proposal is not located along a higher order transit route such as the planned LRT route. The proposal is within walking distance to transit along Nash Road and King Street</p> <p>The proposal is not consistent with this policy.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<b>Housing</b>  Policy 1.4.3  <b>(continued)</b>	public service facilities, and support the use of active transportation and transit; e) requiring transit-supportive development and intensification near transit hubs; and f) establishing development standards that reduce housing costs, encourage compact form, and ensure public health and safety.	
<b>Climate Change</b>  Policy: 1.8.1	Improvements can be made to air quality and reducing greenhouse gas emissions (positively impacting a changing climate) through appropriate land use assignment and development patterns such as promoting compact form and structure of nodes and corridors, promoting active transportation and transit, promoting design that maximizes energy efficiency, and maximizing vegetation.	The applicant has not included or identified how the design of the proposal maximizes energy efficiency and vegetation other than reference to the sharing of heating and cooling resources for smaller spaces.  The proposal is not consistent with this policy.

<b>A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended)</b>		
Theme and Policy	Summary of Policy or Issue	Staff Response
<b>Forecasted Growth</b>  Policy 2.2.1.2	Forecasted growth to the horizon of this Plan will be allocated based on the following:  a) The vast majority of growth will be directed to settlement areas that: i. Have a delineated built boundary; ii. Have existing and planned municipal water and wastewater systems; and, iii. Can support the achievement of complete communities;  c) Within settlement areas, growth will be focused in:	The subject lands are located within the City of Hamilton's urban boundary, supports the achievement of complete communities, and are fully serviced by municipal water and wastewater infrastructure. However, the municipal sewer capacity analysis in the Functional Servicing Report, prepared by S. Llewellyn and Associated Ltd, reveals that the municipal sewer system is at capacity under the existing conditions. The proposed development is expected to exacerbate this surcharge condition and cannot be accommodated on the existing sanitary service.  The proposed development does not conform with this policy.



Theme and Policy	Summary of Policy or Issue	Staff Response
<b>Forecasted Growth</b>  Policy 2.2.1.2  <b>(continued)</b>	i. Delineated built-up areas; ii. Strategic growth areas; iii. Location with existing or planned transit, with a priority on higher order transit where it exists or is planned; and,  Areas with existing or planned public service facilities.	
<b>Complete Communities</b>  Policy 2.2.1.4	Applying the policies of this Plan will support the achievement of complete communities that:  c) Provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stage of life, and to accommodate the needs of all household sizes and incomes; f) Mitigate and adapt to the impacts of a changing climate, improving resilience and reduce greenhouse gas emissions, and contribute to environmental sustainability; and, g) Integrate green infrastructure and appropriate low impact development.	As previously mentioned, the proposal has not included three bedroom units. The applicant has not demonstrated what green infrastructure and sustainable design elements are to be implemented that will mitigate and adapt to the impacts of a changing climate, improve resilience, reduce greenhouse gas emissions, contribute to environmental sustainability as well as integrating green infrastructure and appropriate low impact development.  The proposal does not conform to this policy.
<b>Housing/ Complete Communities</b>  Policy: 2.2.6	A mix of housing options and densities is an important aspect of achieving complete communities. This is generally to be realised, in part, through multi-unit residential development that incorporates a mix of unit sizes to accommodate a diverse range of household sizes and incomes.	While the proposal contributes to achieving a complete community, staff note that providing larger units with additional bedrooms (three bedroom units) allows for larger households with varying incomes to potentially be accommodated within the multiple dwelling built form. The proposal does not provide three bedroom units.  The proposal does not conform to this policy.

<b>Urban Hamilton Official Plan</b>		
<b>Theme and Policy</b>	<b>Summary of Policy or Issue</b>	<b>Staff Response</b>
<p><b>Neighbourhoods Scale and Design</b></p> <p>Policies E.3.2.4, E.3.2.7 e), and 3.2.13</p>	<p>The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.</p> <p>Development shall comply with Section B.3.3 – Urban Design Policies and all other applicable policies.</p> <p>The City supports residential intensification on lands within the Neighbourhoods designation in accordance with Section B.2.4 – Residential Intensification Policies, F.1.14 – Division of Land, and other applicable policies.</p>	<p>The proposal does not comply with policy E.3.2.4, as the subject lands are in a stable residential area with established forms of low density, low rise built forms. The height of the proposed eight storey multiple dwelling and the overall density of the site does not maintain or enhance the established character of the area.</p> <p>The proposal does not comply with the general intent of the Official Plan as the proposal results in shadowing more than 50% of the park which does not comply with the City’s Sun Shadow Study guidelines. The urban design matters, residential intensification policies, and compliance with these policies is further discussed below.</p> <p>The proposal does not comply with these policies</p>
<p><b>Medium Density Residential</b></p> <p>Policies E.3.5.1, E.3.5.2, E.3.5.5, E.3.5.6, E.3.5.8 a) to e) and, E.3.5.9 a) to e)</p>	<p>Medium density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads or within the interior of neighbourhoods fronting on collector roads.</p> <p>Uses permitted in medium density residential areas shall include all forms of multiple dwellings. (OPA 167).</p>	<p>The applicants proposed redesignating the lands from Institutional to Neighbourhoods and evaluated the proposal using the High Density Residential category policies. Staff have however determined that the proposed built form better reflects the “Medium Density Residential” category.</p> <p>In response to policy E.3.5.1 which characterizes “Medium Density Residential” areas as multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads or within the interior of neighbourhoods fronting on collector roads, staff note the proposal is not on the periphery of a neighbourhood and is more centrally located within an established neighbourhood.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Medium Density Residential (Continued)</b></p> <p>Policies E.3.5.1, E.3.5.2, E.3.5.5, E.3.5.6, E.3.5.8 a) to e) and E.3.5.9 a) to e)</p>	<p>Medium density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities/services, including public transit, schools, and active or passive recreational facilities, and local or District Commercial uses.</p> <p>Medium density residential built forms may function as transitions between high and low profile residential uses.</p> <p>For medium density residential uses, the maximum height shall be six storeys, but the height may be increased to 12 storeys without an amendment to this Plan, provided the Applicant demonstrates that: (OPA 167)</p> <p>a) the development shall provide for a mix of unit sizes to accommodate a range of household sizes and income levels, to be implemented through the Zoning By-law; (OPA 167)</p> <p>b) the development shall incorporate sustainable building and design principles including but not limited to the use of locally sourced and/or recycled materials, water conservation, energy efficiency techniques, and low impact development approaches; (OPA 167)</p>	<p>The proposal is not in proximity to a major arterial (Queenston Road) or a minor arterial (King Street East). Furthermore, the proposal does not front onto a collector road.</p> <p>In response to policy E.3.5.2, the proposed eight storey building, and four storey buildings are both considered multiple dwellings by definition of the City of Hamilton Zoning By-law No. 05-200.</p> <p>In response to policy E.3.5.5, the proposal is within convenient and safe walking distance to schools, parks, transit, and commercial uses.</p> <p>The proposal does not meet the functional characteristics of a “Medium Density Residential” area. In response to E.3.5.6, staff find that the proposal is significantly higher than any other structure in the neighbourhood and would not function as a transitional development as it is centrally located within a neighbourhood rather than at the periphery of the neighbourhood. The intent for transition is to guide more intense uses towards the arterial roads and collector roads located along the periphery of the neighbourhood, and transition to lower density uses towards the interior of the neighbourhood.</p> <p>Policy E.3.5.8 provides the evaluation criteria for considering height above six and up to 12 storeys in the “Medium Density Residential” area.</p> <p>In response to policy E.3.5.8 a), development shall provide for a mix of unit sizes. The proposed eight storey multiple dwelling is made up of one and two bedroom units and does not contain any three bedroom units.</p> <p>In response to policy E.3.5.8 b), there is an existing school building on site, the building materials include red brick, painted brick, and stone typical of midcentury institutional design.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Medium Density Residential (Continued)</b></p> <p>Policies E.3.5.1, E.3.5.2, E.3.5.5, E.3.5.6, E.3.5.8 a) to e), and E.3.5.9 a) to e)</p>	<p>c) the development shall not unduly overshadow or block light on adjacent sensitive land uses, the public realm and outdoor private amenity areas; (OPA 167)</p> <p>d) buildings are progressively stepped back from adjacent areas designated Neighbourhoods. The Zoning by-law may include an angular plane requirement to set out an appropriate transition and stepping back of heights; and, (OPA 167)</p> <p>e) buildings are stepped back from the street to minimize the height appearance from the street, where necessary. (OPA 167)</p> <p>Development within the medium density residential category shall be evaluated on the basis of the following criteria:</p> <p>a) Developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may gain access to the collector or major or minor arterial roads from a local road only if a small number of low density residential dwellings are located on that portion of the local road.</p> <p>b) Development shall be integrated with other lands in the Neighbourhoods designation with respect to density, design, and physical and functional considerations.</p>	<p>The existing building and structures on the site are proposed to be demolished to facilitate the development. Staff are not aware of any materials from the existing building being recycled and are not aware of any specific techniques for energy efficiency and/or environmental sustainability. Further the applicant has not identified any sustainable building or design principles being incorporated into the proposal.</p> <p>In response to policy E.3.5.8 c), the City's Sun Shadow Study guidelines for common amenity areas indicates that a minimum of 50 percent sun coverage at all times of the day measured on March 21<sup>st</sup> is required. The Shadow Impact Study demonstrates that at 8:26 a.m. on March 21<sup>st</sup> Glendale Park is 55 percent shadowed.</p> <p>In response to policy E.3.5.8 d), the proposal encroaches into the 45 degree angular plane from the north, west and south lot lines. The proposed Zoning By-law did not include any stepback provisions to achieve an angular plane to achieve transition. In response to Policy E.3.5.8 e), the four storey multiple dwellings were stepped back from the street at the fourth storey.</p> <p>Policy E.3.5.9 provides further criteria for development in the "Medium Density Residential" area. Policy E.3.5.9 a) requires that developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may gain access to the collector or major or minor arterial road from a local road only if a small number of low density residential dwellings are located on that portion of the local road. The subject lands do not have direct access onto a collector road.</p>



Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Medium Density Residential (Continued)</b></p> <p>Policies E.3.5.1, E.3.5.2, E.3.5.5, E.3.5.6, E.3.5.8 a) to e), and E.3.5.9 a) to e)</p>	<p>c) Development shall be comprised of sites of suitable size and provide adequate landscaping, amenity features, on-site parking, and buffering if required. The height, massing, and arrangement of buildings and structures shall be compatible with existing, and future uses in the surrounding area.</p> <p>d) Access to the property shall be designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.</p> <p>e) The City may require studies, in accordance with Chapter F – Implementation Policies, completed to the satisfaction of the City, to demonstrate that the height, orientation, design, and massing of a building or structure shall not unduly overshadow, block light, or result in the loss of privacy of adjacent residential uses. (OPA 167)</p>	<p>The proposal would therefore need to gain access to a collector road (Nash Road) from two local roads (Glen Echo Drive and Rainbow Drive). Approximately 32 low density residential dwellings front onto Glen Echo Drive and another 10 front onto Rainbow Drive along the portion of the local roads that grants access to the collector road (Nash Road South), It is Staff’s opinion that this is not considered a small number of low density residential dwellings. The intent for the exception for local roads and permission for “Medium Density Residential” development is for areas where the local roads do not fully infiltrate a neighbourhood and is intended for one-off contextual situations where local roads are close to the periphery and adjacent or provide near immediate access to higher order roads. This is not the case for the proposal and accordingly the proposal does not comply with the design policies of the “Medium Density Residential” category.</p> <p>In response to policy E.3.5.9 b), staff find the scale, height and function of the development do not integrate well with the existing low-rise character of the interior of the existing neighbourhood.</p> <p>In response to policy E.3.5.9 c), the zoning by-law requires a minimum amenity area of 4 square metres for units less than or equal to 50 square metres. The applicant proposes 20 units that are 50 square metres or less. There are 244 units greater than 50 square metres, which require a minimum amenity area of 6 square metres per unit. The applicant is not proposing to amend the provisions for amenity area and proposes 2,629 square metres. This exceeds what the By-law would typically require, which is 1,544 square metres. In terms of landscaping, 29 percent of the site is proposed for soft scape landscaping.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Medium Density Residential (Continued)</b></p> <p>Policies E.3.5.1, E.3.5.2, E.3.5.5, E.3.5.6, E.3.5.8 a) to e), and E.3.5.9 a) to e)</p>		<p>With regard to parking, the proponent is providing a total of 318 parking spaces, whereas the by-law would typically require 233 parking spaces. Therefore, the proposal exceeds the minimum parking requirement.</p> <p>In response to policy E.3.5.9 d), transportation planning staff indicated that more information was needed to determine the need, type and locations to install traffic calming devices.</p> <p>In response to policy E.3.5.9 e), (similar to E.3.5.8 c)) the City's Sun Shadow Study guidelines for common amenity areas indicates that a minimum of 50 percent sun coverage at all times of the day measured on March 21<sup>st</sup> is required. The Shadow Impact Study demonstrates that at 8:26 a.m. on March 21<sup>st</sup> Glendale Park is 55 percent shadowed.</p> <p>The proposal does not comply with the Medium Density Residential policies.</p>
<p><b>Residential Intensification</b></p> <p>Policy B.2.4.1.4 and Policy B.2.4.2.2</p>	<p>Residential intensification within the built-up area shall be evaluated based on the following criteria:</p> <p>a) A balanced evaluation of the criteria in b) through l), as follows; and,</p> <p>b) The relationship of the proposed development to existing neighbourhood character so that it builds upon desirable established patterns and built form.</p>	<p>The proposal is not integrated with the surrounding area in terms of scale, form and character. The surrounding area is made up of low rise built form of one to two storey single detached dwellings and two to three storey institutional buildings.</p> <p>Staff are not aware of green infrastructure and sustainable design elements incorporated into the proposed development.</p> <p>In response to policy B.2.4.1.4 b), the proposal is in an area that consists of low rise built forms between one and two storeys, mainly made up of single detached dwellings. The proposal does not build upon desirable established patterns and built form in the neighbourhood.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Residential Intensification (Continued)</b></p> <p>Policy B.2.4.1.4 and Policy B.2.4.2.2</p>	<p>c) The contribution of the proposed development to maintaining and achieving a range of dwelling types and tenures;</p> <p>d) The compatible integration of the proposed development with the surrounding area in terms of use, scale, form and character. In this regard the City encourages the use of innovative and creative urban design techniques;</p> <p>e) The contribution of the proposed development to achieving the planned urban structure as described in Section E.2.0 – Urban Structures;</p> <p>f) Existing and planned water, wastewater, and stormwater capacity;</p> <p>g) The incorporation and utilization of green infrastructure and sustainable design elements in the proposed development;</p> <p>h) The contribution of the proposed development to supporting and facilitating active transportation modes; and,</p> <p>i) The contribution of the development to be transit-supportive and supporting the use of existing and planned local and regional transit services.</p>	<p>In response to policy B.2.4.1.4 c), the proposed eight storey multiple dwelling is made up of one and two bedroom units and does not contain any three bedroom units.</p> <p>In response to policy B.2.4.1.4 d), the proposal in terms of use, scale form and character is not considered to be compatibly integrated with the surrounding area.</p> <p>In response to policy B.2.4.1.4 e), the proposal is evaluated as a medium density residential use, and the Official Plan directs these uses to the periphery of neighbourhoods or, if interior to the neighbourhood they must have direct access on a collector road. The proposal is not found on the periphery of a neighbourhood, nor does it have direct access onto a collector road. If direct access to such a road is not possible, the development may gain access from a local road only if a small number of low density residential dwellings are located on that portion of the local road. Glen Echo Drive and Rainbow Drive are the local roads that grants access to the nearest collector road (Nash Road). A total of 42 single detached dwellings front onto Glen Echo Drive (32 dwellings) and Rainbow Drive (10 dwellings), which staff do not consider a small number.</p> <p>As previously mentioned, and in response to policy B.2.4.2.2 b) and c), the proposal is not compatible with the surrounding lands including the lack of transition to the neighbouring school property and the park, resulting in impacts on access to sunlight. A number of the mature trees that contribute to defining the neighbourhood' s height limits are proposed to be removed for the parking garage.</p> <p>In response to policy B.2.4.2.2 d), the multiple dwelling at eight storeys is not compatible with the surrounding area and is not appropriately transitioned to the surrounding neighbourhood.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Residential Intensification (Continued)</b></p> <p>Policy B.2.4.1.4 and Policy B.2.4.2.2</p>	<p>j) the availability and location of existing and proposed public community facilities / services;</p> <p>k) The ability of the development to retain and / or enhance the natural attributes of the site and surrounding community including, but not limited to native vegetation and trees; and,</p> <p>l) compliance of the proposed development with all other applicable policies.</p> <p>When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:</p> <p>a) the matters listed in Policy B.2.4.1.4;</p> <p>b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;</p> <p>c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;</p> <p>d) the consideration of transitions in height and density to adjacent residential buildings; and,</p> <p>e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood.</p>	<p>In response to policy B.2.4.2.2 g), Glen Echo Drive is lined with mature trees that define the streetscape. The trees fronting Glen Echo Drive on the subject lands are proposed to be removed.</p> <p>In Staff's opinion, the removal of these trees and the establishment of a building with a greater setback from the street line (in comparison to the average 6 metre setback from surrounding residential properties) is not respecting, maintaining nor enhancing the streetscape pattern.</p> <p>In response to policy B.2.4.2.2 j), there are outstanding sanitary sewer capacity concerns.</p> <p>The proposal does not comply with the intensification policies of the Urban Hamilton Official Plan.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Residential Intensification (Continued)</b></p> <p>Policy B.2.4.1.4 and Policy B.2.4.2.2</p>	<p>f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;</p> <p>g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations.</p> <p>h) the ability to complement the existing functions of the neighbourhood;</p> <p>i) the conservation of cultural heritage resources; and,</p> <p>j) infrastructure and transportation capacity and impacts.</p>	
<p><b>Urban Design – Built Form</b></p> <p>Policies: B.3.3.1.5, B.3.3.1.8, B.3.3.2.3 a), B.3.3.2.6 e), B.3.3.3.1, B.3.3.3.2, B.3.3.3.3 and B.3.3.3.5</p>	<p>Promote intensification that makes appropriate and innovative use of buildings and sites and is compatible in form and function to the character of existing communities and neighbourhoods.</p> <p>Ensure that new development is compatible with and enhances the character of the existing environment and locale.</p> <p>The physical design of the site shall relate to and enhance its role in the urban structure of the City, and be in accordance with the policies of Chapter E.</p>	<p>In response to policy B.3.3.1.5, the proposed development is not compatible with, nor does it enhance the character of the existing environment and locale, which it predominantly low-rise residential dwellings on the interior of a neighbourhood.</p> <p>In response to policy B.3.3.1.8, in staff's opinion, the proposal does not promote a form of intensification that is compatible in the form and function to the character of the existing community and neighbourhood. The proposed eight storey (26.5 metres) building is higher than any other structure in the neighbourhood and is not appropriately located at the periphery of the neighbourhood or along a collector road in order to complement the existing neighbourhood.</p>



Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Urban Design – Built Form (Continued)</b></p> <p>Policies: B.3.3.1.5, B.3.3.1.8, B.3.3.2.3 a), B.3.3.2.6 e), B.3.3.3.1, B.3.3.3.2, B.3.3.3.3 and B.3.3.3.5</p>	<p>Urban design should foster a sense of community pride and identity by respecting existing character, development patterns, built form, and landscape.</p> <p>Where it has been determined through the policies of this Plan that compatibility with the surrounding areas is desirable, new development and redevelopment should enhance the character of the existing environment by encouraging a harmonious and compatible approach to infilling by minimizing the impacts of shadowing and maximizing light to adjacent properties and the public realm.</p> <p>New development shall be designed to minimize impact on neighbouring buildings and public spaces by:</p> <ul style="list-style-type: none"> <li>a) creating transitions in scale to neighbouring buildings;</li> <li>b) ensuring adequate privacy and sunlight to neighbouring properties; and,</li> <li>c) minimizing the impacts of shadows and wind conditions.</li> </ul> <p>B.3.3.3.3 - New development shall be massed to respect existing and planned street proportions.</p> <p>B.3.3.3.5 – Built form shall create comfortable pedestrian environment by: using design techniques, such as building step-backs, to maximize sunlight to pedestrian areas.</p>	<p>In response to policy B.3.3.2.3 a), it is staff's opinion that the proposal does not respect the existing low-rise character of the interior of the existing neighbourhood.</p> <p>The proposal encroaches into the 45 degree angular plane from the north, west and south lot lines. In response to policies B.3.3.2.6 e), B.3.3.3.2 b) and c), there is also concern that the proposed multiple dwelling will result in shadowing impacts on the neighbouring property, as discussed above. The 45 degree angular plane being achieved would result in a development that is more sympathetic in transition and scale to the area. The proposed multiple dwelling will be 26.5 metres in height which is more than double the permitted maximum building height of the surrounding area's residential and institutional zones, which permit a maximum height of 10.5 metres.</p> <p>The proposal does not comply with these policies.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<p><b>Trees</b></p> <p>Policy C.2.11.1</p>	<p>The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests.</p>	<p>A Tree Preservation Plan, prepared by Jackson Arborculture Inc. and dated October 10, 2023, was submitted in support of the application. The Tree Preservation Plan inventoried 20 trees on the subject lands and within the vicinity of the subject lands, of which 11 trees are on the property and are proposed to be removed due to conflicts with the underground parking garage. The trees being removed include six Norway Maples, one Scots Pine, one Sycamore, one Austrian Pine, and two Honey Locust cultivar. The plan is not approved. Based on the preliminary landscape plan and tree protection plan, compensation at a 1:1 ratio would be required for 11 trees.</p>
<p><b>Archaeology</b></p> <p>Policy B.3.4.4.3</p>	<p>In areas of archaeological potential identified on Appendix F-4 – Archaeological Potential, an archaeological assessment shall be required and submitted prior to or at the time of application submission for planning matters under the <i>Planning Act</i>.</p>	<p>The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential. Should the applications be approved Staff require that a written caution be added to any future site plan.</p>
<p><b>Infrastructure</b></p> <p>Policy C.5.3.6, C.5.3.13, and C.5.3.14</p>	<p>All redevelopment within the urban area shall be connected to the City’s water and wastewater system.</p> <p>The City shall ensure that any change in density can be accommodated within the municipal water and wastewater system and that investments into the system will support the achievement of the intensification and density targets provided in Section E.2.0 – Urban Structure.</p>	<p>The proposed development will be connected to municipal water and wastewater infrastructure.</p> <p>The provided sanitary capacity analysis in the Functional Servicing Report, prepared by S. Llewellyn and Associated Ltd, reveals that the municipal sewer system is at capacity under the existing conditions. The proposed development is expected to exacerbate this surcharge condition and cannot be accommodated on the existing wastewater system.</p> <p>The proposal has not demonstrated conformity with these policies.</p>

Theme and Policy	Summary of Policy or Issue	Staff Response
<b>Infrastructure (Continued)</b>  Policy C.5.3.6, C.5.3.13, and C.5.3.14	The City shall be satisfied that adequate infrastructure services can be provided prior to any development or intensification proceeding and, where technically and economically possible, the City shall require such services to be located underground.	
<b>Transportation</b>  Policy C.4.5.12:	A Transportation Impact Study shall be required for an Official Plan Amendment and/or a major Zoning By-law Amendment.	<p>A Traffic Impact Study (with Parking Assessment and Transportation Demand Management) was prepared by SLBC Inc, dated October 27, 2023. The findings were accepted by Transportation Planning staff.</p> <p>In principle, Transportation Planning has no objection to the proposed amendment to change the zoning to Mixed Use Medium Density (C5) Zone in City of Hamilton Zoning By-law No. 05-200 to permit a mix of low- and mid-rise residential buildings totaling 264 units on the subject site; however, more information is required to determine the need, type and locations to install traffic calming devices and what proportion of the costs, if not all, will be the applicant's responsibility.</p> <p>Should the applications be approved, costs for upgrades resulting from the development will be addressed at the future site plan control stage.</p>

**Appendix “D” to Report PED24071**  
**Page 1 of 6**

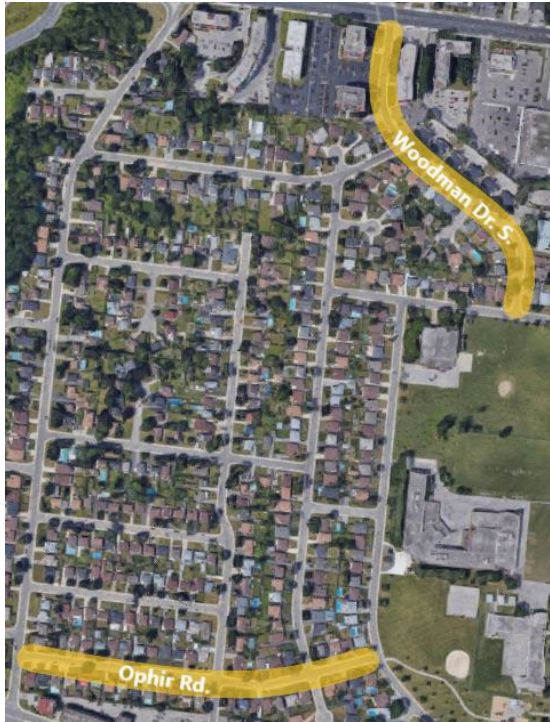
**CONSULTATION – DEPARTMENTS AND AGENCIES**

<b>Department or Agency</b>	<b>Comment</b>	<b>Staff Response</b>
<p>Development Engineering Section, Growth Management Division, Planning and Economic Development Department.</p>	<p>The proposed development will have a negative impact on the downstream municipal sewers, necessitating upgrades to the municipal sewer system to accommodate the proposed development. The municipal sewer capacity analysis in The Functional Servicing and Stormwater Management Report reveals that the municipal sewer system is at capacity under the existing conditions. The proposed development is expected to exacerbate this surcharge condition. As a result, Hamilton Water cannot support the subject development until downstream sewers are upgraded to provide the proper service level for the servicing area.</p> <p>The proposed surface level ponding on the parking garage deck is a potential hazard for vehicular and pedestrian traffic. The stormwater storage volume shall be entirely controlled within the stormwater management tank (no surface level ponding on the parking garage deck).</p> <p>Due to limited capacity in the municipal sewer system among other factors, the applicant shall demonstrate that no long-term dewatering (due to groundwater) will be carried out and conveyed to municipal sewer infrastructure. Foundations/subsurface structures shall be designed/waterproofed accordingly.</p> <p>The maximum day domestic water usage for the development, based on the population-based approach, has been calculated as 8.75 L/s which is acceptable.</p>	<p>The proposed development is premature as the applicant has not demonstrated that there is sufficient sanitary servicing capacity downstream to support the proposed development.</p>

**Appendix “D” to Report PED24071**  
**Page 2 of 6**

<b>Department or Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Development Engineering Section, Growth Management Division, Planning and Economic Development Department <b>Continued</b>	The results identify that sufficient flow and pressure is available to meet the demands of the development and that the development will not adversely impact the flows and pressures available within the pressure district. Hamilton Water has no concerns from a water servicing perspective. Updated water usage and Required Fire Flow (RFF) calculations based on the final design of the building will be required at site plan approval.	
Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department	<p>Approved the Transportation Impact Study, by SLBC Inc, dated October 27, 2023.</p> <p>In principle, Transportation Planning has no objection to the proposed amendment to change the zoning to “Mixed Use Medium Density (C5-###)” in City of Hamilton Zoning By-law No. 05-200 to permit a mix of low- and mid-rise residential buildings totalling 264 units on the subject site; however, more information is needed to determine the need, type and locations to install traffic calming devices and what proportion of the costs, if not all, will be the applicant’s responsibility</p> <p>A detailed Neighborhood Traffic Calming Options Report / Technical Assessment, is to be undertaken by the applicant’s Transportation Consultant, of the i) needs / warranting criteria for traffic calming, ii) device selection and iii) costing on segments of; Woodman Drive South; and Ophir Road as per the following figure:</p>	Should the applications be approved, a detailed Neighbourhood Traffic Calming Options Report will be addressed through the future Site Plan Control application or as a Holding Provision to be included in the amending zoning by-law.



Department or Agency	Comment	Staff Response
<p>Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department <b>Continued</b></p>	 <p>The parking assessment indicates that the minimum required on-site parking spaces per the City of Hamilton's Zoning By-Law No. 05-200 is 264 spaces, or 1 space per unit.</p> <p>The site is planned to include 264 residential units and 318 on-site parking spaces of which 41 spaces will be surface level and 277 spaces will be underground. This results in a parking provision rate of 1.2 spaces per unit. The surplus parking will assist in reducing the likelihood of parking demand exceeding the on-site supply and spilling into the surrounding road network.</p>	

## Appendix “D” to Report PED24071

Page 4 of 6

Department or Agency	Comment	Staff Response
Waste Policy and Planning Section, Waste Management Division, Public Works Department	<p>The proposed development proposes stacked townhouses as well as a large multi-residential building. The stacked towns will require front-end garbage bin service and cart collection for recycling and organic material. The large multi-residential building will require front-end bin service for garbage, recyclable containers, recyclable papers, and organic waste.</p> <p>If the development is not designed in accordance with City requirements for municipal waste collection, the applicant will need to arrange a private waste hauler for the removal of all waste materials and a warning clause will need to be included as part of the purchase and sale agreement disclosing to prospective buyers that the property is not serviceable for municipal waste collection.</p>	<p>Should the applications be approved, the applicant will be required to demonstrate compliance with municipal waste collection requirements or provide a note that waste collection will be by way of a private waste hauler through a future Site Plan Control application.</p> <p>The recommended warning clause will be addressed through a future Draft Plan of Condominium application and Site Plan Control application.</p>
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	Approved the tree inventory and preservation plan report, prepared by Jackson Arboriculture Inc. and dated October 10, 2023. The landscape concept plan is approved in theory, although measurements need to be confirmed.	Should the applications be approved, a detailed Landscape Plan will be required through the future Site Plan Control application.

**Appendix “D” to Report PED24071**  
**Page 5 of 6**

<b>Department or Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Legislative Approvals, Growth Management Plan, Planning and Economic Development Department	<p>It should be confirmed if tenure for the subject proposal will be a Condominium. It should be confirmed if the intent is a phased Condominium.</p> <p>The municipal addresses for the proposed development will be determined after conditional Site Plan Control approval is granted.</p>	<p>The tenure of the buildings will be determined at a later stage in the process (Draft Plan of Condominium if applicable).</p> <p>Should the applications be approved, municipal addressing would be requested through the future Site Plan Control application.</p>
Alectra	<p>For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department. Relocation, modification, or removal of any existing hydro facilities shall be at the owner’s expense. Please contact Alectra Utilities to facilitate this.</p> <p>Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment. Developers to acquire an easement, if required. Developers to provide a grade level switching vault room as per Alectra Utilities standards. The Switching Vault Room at grade level shall be accessible by Alectra.</p> <p>In order for Alectra Utilities to prepare design and procure the materials required to service this site in a timely manner, a minimum of 6 months notification is required.</p>	<p>Should the applications be approved, Alectra will be included in circulations for review and comment through the future Site Plan Control application.</p>

**Appendix “D” to Report PED24071**  
**Page 6 of 6**

<b>Department or Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Parks and Cemeteries Section, Environmental Services Division, Public Works Department	Parks staff does not support the proposed pathway connection to the park, due to trespass, security and liability issues. Parks staff are supportive of a fence located along the private property to delineate private space from public space, thereby reducing opportunities for encroachments onto public property.	Should the applications be approved, Parks staff will be included in circulations for review and comment through the future Site Plan Control application.
Agencies that had no comments and/or no concerns:	<ul style="list-style-type: none"> <li>• Hamilton Wentworth District School Board;</li> <li>• Hamilton Conservation Authority;</li> <li>• Canada Post;</li> <li>• Bell Canada;</li> <li>• Enbridge;</li> <li>• Public Works Department, Transit Division, Transit Planning and Infrastructure Section;</li> <li>• Commercial Districts and Small Business Section, Economic Development Division, Planning and Economic Development Department; and,</li> <li>• Real Estate Section, Economic Development Division, Planning and Economic Development Department.</li> </ul>	Noted.

**Appendix “E” to Report PED24071**  
**Page 1 of 3**

### Summary of Public Comments Received

Comment Received	Staff Response
<p>Concerns that the proposal is not in keeping with the existing neighbourhood and is not consistent with the surrounding environment.</p>	<p>Staff reviewed the applications for compatibility, which is defined in the Urban Hamilton Official Plan as land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area. ‘Compatibility’ or ‘compatible’ should not be narrowly interpreted to mean “the same as” or even as “being similar to”.</p> <p>Staff are not satisfied that the proposal is compatible with the surrounding residential area in terms of character, scale, massing, height, transition and shadow impact.</p>
<p>Concerns with construction and the number of trucks for removal of fill, concerns with the emissions, the amount of excavation, traffic congestion, and safety.</p>	<p>If approved, a Construction Management Plan will be required as a part of the site plan approval process to address appropriate traffic and construction safety measures that will mitigate construction conflicts with the existing neighbourhood vehicle and pedestrian traffic. A Construction Management Plan also ensures that the proponents have coordinated regular cleaning of debris and put in place mitigation measures for dust/dirt or noise nuisance.</p>
<p>Concerns that the eight storey building is in the middle of the neighbourhood and not on the periphery.</p>	<p>The lands are located centrally within the Corman neighbourhood. Policy E.3.5.1 of the Medium Density Residential category does not permit this scale of development to be located at the interior of the neighbourhood without direct access onto a collector road or on a local road that a number of low density dwellings are located on. The proposal is not located on a collector road and there are 42 single detached dwellings fronting on the local roads providing access from a collector road.</p>
<p>Concerns that there was not enough parking for the number of units being provided.</p>	<p>The Traffic Impact Study submitted included a parking analysis. The minimum required on-site parking spaces per the City of Hamilton’s Zoning By-Law No. 05-200 is 264 spaces, or 1 space per unit. The applications propose 1.2 spaces per unit. The proposal exceeds the minimum parking requirement.</p>



**Appendix “E” to Report PED24071**  
**Page 2 of 3**

<b>Comment Received</b>	<b>Staff Response</b>
Concerns that the development would negatively impact traffic flow in the surrounding area. Multiple concerns were provided noting the existing traffic concerns caused by school pick up and drop off.	Traffic is expected to increase by approximately 118 new AM peak hour and 127 new PM peak hour trips.  The owner will be responsible for any road improvements in association with their development all at their cost, which may include installation of traffic calming devices on the surrounding roads among other improvements. Should Council choose to approve the application, staff have recommended that the proponent be required to explore traffic calming measures that can be implemented in the neighbourhood.
Concerns with parkland being removed.	A portion of the lands are used for City parkland purposes but are owned by the applicants. If approved, the city would remove any assets (ball diamond and hard surface court).
Concerns with the water system not being able to handle the additional units.	The maximum day domestic water usage for the development, based on the population-based approach, has been calculated as 8.75 L/s. These calculations are acceptable. However, the proposed development is anticipated to lead to the downstream municipal sanitary sewers surpassing their designated capacity.
Concerns regarding the process for the closing of Glen Echo Elementary School.	The closure of a school is a process that is dealt with by the Hamilton-Wentworth District School Board. HWDSB provides a public information session for interested parties within the local community as part of the two-phased property disposition process. It is noted that this service is not a requirement.
Concerns with safety (i.e., from construction, increased population, and traffic).	A Construction Management Plan will be required as a part of the site plan control process which is intended to address appropriate traffic and construction safety measures and mitigate construction conflicts with the existing neighbourhood vehicle and pedestrian traffic.
Concerns that the surrounding schools are at capacity.	Staff have not received concerns from either the Hamilton-Wentworth District School Board or the Hamilton-Wentworth Catholic District School Board regarding student capacity.
Concern regarding power distribution and power disruption.	The applications were circulated to Alectra for review and no comments or objections were received from the utility provider.
Concerns that the development will not be visually appealing.	Through the site plan process there will be an opportunity for Urban Design staff to recommend design measures.

**Appendix “E” to Report PED24071  
Page 3 of 3**

<b>Comment Received</b>	<b>Staff Response</b>
Concerns that development will increase air pollution.	The Urban Hamilton Official Plan requires development to incorporate sustainable building and design principles including but not limited to the use of locally sourced and/or recycled materials, water conservation, energy efficiency techniques, and low impact development approaches. Staff are not satisfied that this has been sufficiently addressed by the proponent.
Concerns regarding snow removal.	Through the site plan process, areas for snow removal will be required to be identified and private snow removal will be the responsibility of the private landowner.
Concerns regarding shadow impact.	The Shadow Impact Study dated December 1, 2023, prepared by MHBC Planning Ltd. identifies shadow impacts on Glendale Park to the west. The City’s Sun-Shadow Study guidelines categorizes parks as common amenity area and indicates that a minimum of 50 percent sun coverage at all times of the day measured on March 21 is required. The Shadow Impact Study demonstrates that between the hours of 8:26 a.m. to 9:26 a.m. on March 21, one of the parks is more than 50 percent shadowed (55 percent).

Question	Response
<b>Design, Density &amp; Height</b>	
<p>Concepts shown do not fit in with the neighbourhood at all.</p>	<p>Two options were provided at the Neighbourhood Information Meeting: Concept A illustrated two apartment buildings with a 3-6 storeys, and Concept B illustrated one apartment building with a height of 3-6 storeys and twenty-four townhouse units. The final concept provides adequate transition to the surrounding neighbourhood through the use of stepbacks on the apartment building and by locating townhouses along Glen Echo Drive, being the frontage of the site.</p>
<p>Has a lower density option been considered?</p>	<p>Please see response above.</p>
<p>Have townhouses been considered?</p>	<p>The site design includes townhouses along Glen Echo Drive. Tapering of the apartment building leads to a height similar to townhouses towards the southerly lot line.</p>
<p>How are the concepts preserving the atmosphere and character of the neighbourhood?</p>	<p>Providing townhouses and tapering the apartment building nearest to the surrounding low-rise neighbourhood. The design also applies fenestration that is consistent with the character of the neighbourhood.</p>
<p>Where will the buildings be exactly located?</p>	<p>The apartment building will be located nearest to the westerly lot line. The townhouses will be located nearest to the easterly lot line.</p>
<p>The high school has had incidents in the past with gangs and fights and weapons. Who would choose to live so precariously close to a high school?</p>	<p>Housing is a necessity and is strongly undersupplied and demanded currently. The surrounding area and neighbourhood is predominantly residential, providing rationale for further residential development in the area.</p>
<p>How will privacy be impacted by the multi-unit residential apartment buildings?</p>	<p>The presented Concepts illustrate tapering towards the neighbourhood and/or townhouses being located closest to the surrounding residential. Configuration has been designed to minimize impacts on the surrounding neighbourhood.</p>
<p>Concerns about impact on views and natural light. What are the shadowing impacts on the nearby school and surrounding neighbourhood?</p>	<p>A Shadow Impact Study was completed and presented for both Concepts at the Neighbourhood Information Meeting. Concept B is the chosen concept; Minor shadowing occurs on the nearby school and surrounding neighbourhoods.</p>

How will noise and safety concerns created by loitering and an increase in youth population be mitigated?	Concerns regarding loitering and increase in youth population are speculative in nature.
Concerns pertaining to removal of additional green space that is available to the community for leisurely and recreational use.	The portion of the site to be developed was bought from the abutting School due to surplus lands. The abutting park and open space are not subject to this development.
<b>Servicing</b>	
How will City Council improve snow removal in the neighborhood to help reduce the additional parking and traffic flow issues in the neighborhood, that winter weather will bring?	To be addressed by Losani Homes in the future.
Who will pay for the upgrades to services and how will they be addressed?	Development and infrastructure fees will be paid by the owner, in accordance with the City.
How will adding 310 unit impact the neighbourhoods utilities and infrastructure?	To be assessed by third-party engineering firm.
There are existing water and sewage issues with a waste pond constructed on Rainbow Drive.	Servicing, stormwater, sanitary and other infrastructure details will be reviewed and addressed by a Professional Engineer.
The water pressure in the neighbourhood has been an issue since Robinson Homes built the survey in the 60s; that many units will overload the current water infrastructure.	Servicing, stormwater, sanitary and other infrastructure details will be reviewed and addressed by a Professional Engineer.
Hydro is at a premium in the current survey as well; the distribution centers are often struck by lightning and there are outages all the time; will you work to put them underground, so this is not an issue with your added usage.	Discussions with the appropriate Hydro agency will occur to address <i>potential</i> electrical issues.
There is no adequate plan for waste or stormwater overflow. The posters indicated either "underground" or in "ponds". If it's to be underground, I would caution you that this area is already prone to flooding due to runoff from the Red Hill Valley Expressway and inadequate City sewer infrastructure. Unless you have plans to pay the City to update all the sewers within a 5km radius, underground is not the answer. If it's to be ponds, I have no idea where you'd put them.	Servicing, stormwater, sanitary and other infrastructure details will be reviewed and addressed by a Professional Engineer.
<b>Traffic</b>	
How is putting an apartment on the site suitable to the footprint?	Site design has been amended to include an apartment near the westerly lot line of the site, as to


	mitigate shadowing and privacy issues. Moreover, the apartment building has been designed to have step-backs at the third, fourth, fifth and sixth levels to provide appropriate angular plane considerations and to provide a street-façade similar to that of a low-rise built-form.
How safe will the children be walking to their schools in the midst of all this traffic?	Appropriate safety measures will be implemented to ensure circulation throughout the site and to the greater neighbourhood remains safe and accessible. Adequate sidewalks will be available on the site to provide connectivity throughout the site and onto existing public infrastructure, such as public sidewalks.
The school's new parking lot is too small.	This issue cannot be addressed by the design of the subject lands. Furthermore, the site is located within walking distance of the respective school.
Where will guest parking be located?	Visitor parking will be located on-site above-ground and in the underground parking garage.
How will the additional parking, necessary to accommodate the planned 310 units, be implemented without seriously affecting current resident's ability to move around the community?	Parking will be provided predominantly underground. The Parking rate will be approximately 1.2 spaces/unit and parking will be provided to accommodate visitor and accessible parking.
Which street will traffic be exiting onto from the site?	Access and egress will be provided via one-point of entry/exit along Glen Echo Drive.
How will the developer and the City address existing traffic issues and overburdened infrastructure? Glen Echo, Rainbow Drive and Nash Road already carry heavy morning traffic. The two remaining schools on the block are Glendale Secondary School and Viola Desmond Elementary School. It is grid lock all the time.	A Transportation Impact Study has been completed to determine the projects impact on traffic, circulation, and transportation.
<b>Additional/Other</b>	
Will there be future meetings?	Future meetings are not required. The proposed application will be presented to the public again once the application is brought to be heard by the City of Hamilton's Planning Committee upon submission and review of a complete application.
What is the tenure?	To be determined by Losani Homes.
Has affordable housing been considered?	This project will not be considered for affordable housing.



What are the impacts on lighting, noise, and air quality?	To be addressed by Losani Homes at the time of Site Plan Approval.
How will the existing park, which is encroaching onto the site, be impacted and/or maintained?	The park will be buffered by a planting strip to minimize impacts. The development does not propose to alter the existing park.
Why were the baseball diamond and basketball courts not located 100% on park land? The concepts viewed at the community meeting, leave little buffer zone between the park and buildings, or between the buildings and street.	The lands sold to Losani Homes were severed and sold by the abutting schools District Board.
Both neighbourhood schools are at capacity. Where will children from 310 units go to school?	To be addressed by Losani Homes in the future.
Why was only 3 days advance notice provided for the Neighbourhood Information Meeting?	Notice was circulated to addresses within 120 metres of the site on May 12, 2023.
Is there a public copy of the posters, a website or a PowerPoint presentation illustrating the Neighbourhood Information Meeting content?	An electronic copy of the Presentation Boards presented at the Neighbourhood Information Meeting are available upon request.
Have you considered senior accommodations?	This project is not being considered for senior accommodations.
This current and proposed driveway, on the North side, effectively creates a buffer zone to the high school parking lot and practice field, why?	The site has been designed to provide efficient circulation that mitigates issues created by multiple entry points.
I was not aware of any public inquiry on when the land was sold. If the infrastructure already exists, why didn't the city convert it into a community recreational centre?	The subject lands were sold by the School District. The purchaser of the subject lands was up to the District Board's discretion.
Concerns relating to noise and air pollution from construction.	At this time, the proposed development will be reviewed for an Official Plan Amendment and a Zoning By-law Amendment. Construction impacts will be addressed at the time of Site Plan Control.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Office of Climate Change Initiatives**

<b>TO:</b>	Mayor and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Bill 165, <i>Keeping Energy Costs Down Act, 2024</i> (PED24052) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Lynda Lukasik
<b>SUBMITTED BY:</b>	Lynda Lukasik Director, Office of Climate Change Initiatives Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That Council adopt the submissions and recommendations, as attached in Appendix "A" to Report PED24052, regarding the *Keeping Energy Costs Down Act, 2024*, a bill proposing amendments to the *Ontario Energy Board Act, 1998*;
- (b) That the Director of the Office of Climate Change Initiatives and the City Solicitor be authorized to make the submissions and recommendations regarding these proposed amendments to the *Ontario Energy Board Act, 1998*, as attached in Appendix "A" to Report PED24052.

### EXECUTIVE SUMMARY

On December 21, 2023, the Ontario Energy Board issued a Phase 1 Decision and Order regarding Enbridge Gas Incorporated's application for 2024 rates ('The 2023 Rebasing Proceedings'). On February 14, 2024 Hamilton City Council adopted the motion *Support for the Decision of the Ontario Energy Board to End the Gas Pipeline Subsidy*, whereby Council confirmed its support for the decision of the Ontario Energy Board to establish a revenue horizon of zero years for new residential connections to the natural gas distribution system. On February 22, 2024, the Government of Ontario introduced Bill 165, *Keeping Energy Costs Down Act, 2024*, and posted a notice on the

---

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: Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) - Page 2 of 7**

---

Environmental Registry of Ontario website (ERO 019-8307) initiating a 45-day public comment period ending on April 7, 2024. If passed, the proposed legislation would result in a series of notable changes to the *Ontario Energy Board Act, 1998*. In the Environmental Registry posting, the Province states that the purpose of its proposed legislative changes is to:

- Ensure fair and informed hearings at the Ontario Energy Board;
- Ensure Government sets energy policy, not the regulator;
- Protect future homebuyers and promote affordable housing;
- Maintain customer choice with respect to energy options for homes and businesses; and,
- Support the Government's mandate to rebuild Ontario's economy as we keep costs down for people and businesses and build the homes our growing province needs.

One proposed change provides the Province with time-limited authority to prescribe the 'revenue horizons'. Revenue horizons are the time period over which gas utilities are permitted to recoup the upfront cost of new connections to the natural gas distribution system through charges to ratepayers. These revenue horizons would be set through regulations made under the *Ontario Energy Board Act*, and the Province would have the authority to prescribe them until January 1, 2029.

The proposed legislation would also enable the Province to require the Ontario Energy Board to hold 'generic' hearings to address one or more issues that affect multiple regulated entities. Authorities conferred on the Province would include:

- How and when the generic hearing should be conducted;
- The ability to transfer an issue from an on-going proceeding to a generic hearing, and;
- The ability to require a generic hearing on issues already decided by the Ontario Energy Board as long as at least two years have passed since the Ontario Energy Board decision was made.

Finally, proposed changes would authorize the Minister of Energy to issue directives respecting any Board orders made between February 22, 2024 and December 31, 2024 where the Board refuses to grant leave to construct a proposed natural gas transmission or dual-purpose transmission and distribution line, or grants it subject to specified conditions. The Minister can require that the Board rescind orders of this nature and hold a new hearing. Further, a new ss 96.2(1) of the *Ontario Energy Board Act* would enable the Minister to issue directives that would require the Board to accept that it is in the public interest for natural gas consumers identified by the Minister to bear the full cost of the distribution line in question.

---

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: Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) - Page 3 of 7**

---

The Minister can also direct the Board to not require an entity that will be connected to or served by a line to contribute to its construction.

The Minister of Energy has indicated that if the proposed legislation is passed, the Government will immediately reverse the Ontario Energy Board's December 21<sup>st</sup> decision referenced below, to reduce the revenue horizon to zero.

Staff recommends that the City of Hamilton provide comments to the Province opposing all of these proposed changes to the *Ontario Energy Board Act*. Detailed staff comments on the proposed legislation are provided in Appendix "A" to Report PED24052.

**Alternatives for Consideration – See Page 7****FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Not applicable

Staffing: Not applicable.

Legal: Bill 165 completed First Reading on February 22, 2024 and was debated at Second Reading from February 26 to 28. On February 28 the Bill was ordered referred to the Standing Committee on the Interior. Legal staff will continue to monitor the status and progression of Bill 165 before the Legislature.

**HISTORICAL BACKGROUND**

On December 21, 2023, the Ontario Energy Board issued a Phase 1 Decision and Order regarding Enbridge Gas Incorporated's application for 2024 rates ('The 2023 Rebasing Proceedings'). The hearing lasted just over a year and a total of 33 parties secured intervenor status in the process. In its decision, the Ontario Energy Board noted that the intersection of the energy transition and the approvals being sought by Enbridge Gas Incorporated were a major focus of the hearing.

The Ontario Energy Board decision resulted in a number of key findings, including the Board's decision to reduce Enbridge's current 40 year revenue horizon down to zero, requiring that small volume customer connections – which are estimated to cost ~\$4,400 per dwelling - be paid for up front starting January 1, 2025. The Ontario Energy Board justified this decision based on its concern that, as more customers transition away from methane gas to low/no carbon energy alternatives, there is a growing risk of stranded assets and an associated financial impact on new and current Enbridge customers. The Board also recognized that its decision would encourage

---

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: Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) - Page 4 of 7**

---

more developers and home buyers to consider transitioning to low/no carbon options like heat pumps for home space and water heating – a good outcome given established government commitments to transition to low carbon alternatives over time in order to address the climate crisis.

The Ontario Energy Board set out other requirements to further address its concerns about natural gas infrastructure and the growing risk of stranded assets by also requiring that Enbridge take steps to prioritize maintenance and repair of existing assets over replacement with long-lived assets, and to ‘prune’ the system wherever possible to avoid asset replacement.

On February 14, 2024 Hamilton City Council adopted the motion *Support for the Decision of the Ontario Energy Board to End the Gas Pipeline Subsidy*, whereby Council confirmed its support for the decision of the Ontario Energy Board to establish a revenue horizon of zero years for new residential connections to the natural gas distribution system. The motion also requires that that the Ontario Government be formally notified that the City of Hamilton requests that the decision of the Ontario Energy Board stand. A copy of the motion is attached as Appendix “B” to Report PED24052.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **The Ontario Energy Board and Ontario Energy Board Act**

The Ontario Energy Board functions as Ontario’s independent regulator of the electricity and natural gas sectors. The Board has a stated mission to ‘deliver public value through prudent regulation and independent adjudicative decision-making which contributes to Ontario’s economic, social and environmental development’.

Section 2 of the *Ontario Energy Board Act* requires that the Ontario Energy Board ‘in carrying out its responsibilities under this or any other Act in relation to gas, shall be guided by’ objectives including: facilitating competition in the sale of gas to users; informing consumers and protecting their interests with respect to prices and the reliability and quality of gas service; facilitating rational expansion of transmission and distribution systems; facilitating rational development and safe operation of gas storage; promoting energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer’s economic circumstances; facilitating the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas and; promoting communication within the gas industry.

---

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: Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) - Page 5 of 7**

---

**Hamilton's Climate Action Strategy**

In March of 2019, Hamilton City Council unanimously declared a climate emergency. Coming out of that declaration was a commitment to work with the broader community to create a community roadmap to net zero, now known as Hamilton's Climate Action Strategy. Hamilton's Climate Action Strategy, and the climate mitigation and adaptation plans found within it, was adopted in August 2022 (Report CM22016/ PED22058(a)/ HCS22030(a)) and it is the City's roadmap to drastically cutting carbon emissions and achieving net zero by 2050, or sooner, as is now being urged.

The Community Energy and Emissions Plan is the mitigation plan found within Hamilton's Climate Action Strategy. This plan includes a core commitment to 'transform our buildings' by conserving energy and transitioning existing and new buildings away from using fossil fuels like methane gas for home heating and cooling. This commitment is crucial to the effective realization of net zero by 2050 as buildings represent the third largest source of greenhouse gas emissions in Hamilton.

The Plan calls for all homes to be retrofitted to achieve a 50% energy savings, followed by switching homes to heat pumps for space and water heating, all before the year 2050 and, ideally, sooner than that. To this end, the City of Hamilton launched the Better Homes Hamilton home energy retrofit pilot project which is designed to encourage and support homeowners to transition away from fossil fuel powered home heating and cooling systems and to instead choose low carbon air or ground source heat pump systems.

**RELEVANT CONSULTATION**

Staff from Legal Services were consulted in the drafting of this report, recommendations and appendices.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Detailed staff comments on the proposed *Bill 165, Keeping Energy Costs Down Act, 2024* are attached in Appendix "A" to Report PED24052.

**Authorization to Prescribe Revenue Horizons**

If passed, this change authorizes the Province to prescribe the 'revenue horizons' over which gas utilities are permitted to recoup the upfront cost of new connections to the natural gas distribution system. While the authorization is for a time-limited period, it empowers the Province to intervene in areas historically under the purview of the Ontario Energy Board as the independent energy regulator.

---

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: Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) - Page 6 of 7**

---

The proposal authorizing the Province to prescribe revenue horizons for residential connections to the natural gas distribution system is contrary to Council's position on this matter. The Province states that the affordability of new housing units in Ontario will be significantly impacted by a zero revenue horizon and that their plan protects homebuyers. Further, the Minister stated in a press release on December 22, 2023 that requiring natural gas connection costs to be paid up front rather than amortized over 40 years 'could lead to tens of thousands of dollars being added to the cost of building new homes', without clarifying that this is the extreme scenario for infrastructure costs associated with connecting new homes built in remote rural areas where infrastructure must be run over longer distances. Further, by asserting that a zero revenue horizon impacts on housing affordability, the Province fails to recognize the financial implications for residential ratepayers from the risk of stranded fossil fuel infrastructure that will continue to increase as the energy transition progresses. Finally, while stating that it is protecting customer choice where energy options are concerned, the Province fails to recognize the benefit that a zero revenue horizon brings by introducing more choice to developers and home buyers at the construction phase when home energy options are being considered. A zero revenue horizon facilitates transition to low/no carbon home heating and cooling systems by effectively levelling the playing field when it comes to selecting home energy systems at the home construction phase. All of these challenges underscore the bigger picture need for the Province to develop a natural gas transition policy for Ontario.

**Authorization to Initiate Generic Hearings & Revisit Past Ontario Energy Board Decisions**

The proposed legislative changes authorize the Province to require the Ontario Energy Board to call generic hearings, to pull issues from a hearing that is already underway for consideration in a generic hearing instead, and to require a generic hearing on issues already decided by the Ontario Energy Board as long as at least two years have passed since the decision in question was made.

Staff does not support these proposed changes to when and how Ontario Energy Board hearings are initiated. The Ontario Energy Board's mandate is to serve as Ontario's independent energy regulator and, given this, the processes that guide hearings, the nature and focus of hearings and revisiting of past hearing decisions should not be modified to enable Provincial influence over these proceedings. This erodes the intent and purpose of independent expert bodies like the Ontario Energy Board and compromises the Board's ability to fulfil its mission to 'deliver public value through prudent regulation and independent adjudicative decision-making which contributes to Ontario's economic, social and environmental development'.

---

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: Bill 165, Keeping Energy Costs Down Act, 2024 (PED24052) (City Wide) - Page 7 of 7**

---

**Authorization to Undo Leave to Construct Refusals & Conditions**

The proposed changes authorize the Minister to undo an Ontario Energy Board decision to refuse a leave to construct order or to remove any conditions that the Ontario Energy Board has placed on a leave to construct order related to natural gas transmission and distribution lines. The changes also authorize the Province to determine what is in the public interest regarding which customers should bear the full cost of transmission and distribution lines, and to issue directives specifying which customers are not required to pay a surcharge or contribution in aid of construction for certain natural gas distribution and transmission lines.

Staff does not support the proposal to authorize the Province to undo leave to construct refusals or remove conditions added to leave to construct orders. Staff also does not support authorizing the Province to determine what constitutes the public interest where determinations regarding which customers should bear costs or be exempted from bearing costs where the construction of natural gas transmission and distribution lines are concerned. Again, for reasons set out in the section immediately above, these proposed changes erode the intent and purpose of independent bodies like the Ontario Energy Board, and, in this instance, may lead to decisions that go against the stated mission and mandate of the Board.

**ALTERNATIVES FOR CONSIDERATION**

Council may direct Staff to submit reversed comments to the Province in support of Bill 165. Staff do not recommend this option as Council passed a motion on February 14, 2024 supporting the December 21, 2023, Ontario Energy Board decision and calling on the provincial government to uphold the zero energy revenue horizon for new natural gas connection costs.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24052 – City of Hamilton comments on *Bill 165, Keeping the Energy Costs Down Act, 2024*

Appendix "B" to Report PED24052 – Council Motion – Support for the Decision of the Ontario Energy Board to End the Gas Pipeline Subsidy

## Appendix “A” to Report PED24052

## Page 1 of 5

**City of Hamilton Comments on  
Bill 165, Keeping Energy Costs Down Act, 2024**

Specific changes proposed to the Ontario Energy Board Act (“OEBA”):

Summary of Proposed Change	Comments
<p>Sections 4.4 and 4.4.1 of the OEBA already require the Board to establish processes for obtaining consumer and electricity industry stakeholder input. The proposed changes would expand these rules to apply in the gas context and allow for regulations specifying a list of persons the Board <b>must</b> contemplate in establishing processes.</p>	<p>These changes include authorizing the Province to dictate the list of persons the Board must consider in establishing processes and, in so doing, erodes the independent role of the OEB.</p> <p>As an alternative, the City of Hamilton suggests that the changes to the Act establish the Board as the entity that determines the persons it must contemplate when establishing processes for obtaining stakeholder input.</p>
<p>New s.28.8 authorizes the Minister of Energy to issue directives, approved by the Lieutenant Governor in Council, requiring the Ontario Energy Board (OEB) to hold a generic hearing to determine any matter respecting natural gas or electricity over which it has jurisdiction.</p> <p>If approved, a directive could specify:</p> <ul style="list-style-type: none"> <li>• timelines for conducting the hearing,</li> <li>• procedural requirements for the hearing,</li> <li>• matters the Board must consider in conduct of the hearing and its decision, and</li> <li>• other matters considered appropriate by the Minister.</li> </ul> <p>The Minister could also transfer an issue from an ongoing proceeding to a generic hearing or require a generic hearing on issues already decided by the OEB, provided that at least two</p>	<p>This change authorizes the Province to require the Board to hold hearings on issues for which focused hearings are already underway or issues for which a Board decision had already been made.</p> <p>These changes add further to the transfer of authorities to the Province, further --- affecting the independent role of the OEB on these matters. While the Province states that these changes are meant to ensure that hearings engage all key stakeholders, there are other means by which the OEB itself could achieve these outcomes (see above). Further, the ability to direct that past decisions be reheard may create uncertainty as to status of these decisions and of the independent role of the OEB.</p> <p>As an alternative, the City of Hamilton suggests that any provisions to accommodate generic hearings and a broader engagement of potentially interested parties be accomplished by authorizing the OEB to determine when such an approach to a hearing would be most appropriate.</p>

## Appendix “A” to Report PED24052

## Page 2 of 5

Summary of Proposed Change	Comments
<p>years have passed since the order was made.</p> <p>Where a directive is issued on a matter that is subject of an ongoing proceeding, the Board shall not make any order in the ongoing proceeding with respect to the matter [s. 28.8(6)]</p> <p>The Minister’s directives and the Board’s actions to implement them are not subject to any duty of procedural fairness, including any requirement to provide notice, reasons, or an opportunity to make submissions [s. 28.8(7)].</p> <p>Directives prevail in the event of a conflict with the Statutory Powers Procedure Act, rules of the Board under s. 25.1, or an order of the Board [s. 28.8(9)]</p> <p>A definition of ‘generic hearings’ is added to s.3 of the Act to indicate they are hearings held under section 19(4) of the OEBA to determine one or more matters common to multiple regulated persons or entities.</p> <p>S.19 of the Act is amended to specify that the Board has authority to hold generic hearings under subsection 19 (4).</p>	<p>These additional changes included in s 28.8(6), 28,8(7) and 28.8(9) serve to further empower the Province to influence the outcomes of OEB proceedings and to do so in a manner that usurps the OEB’s ability to issue an order, to do so without procedural fairness, and to ensure that Provincial directives prevail in a generic hearing process.</p>
<p>A new section 36.0.1 provides authority for regulations to be made under the OEBA to specify the number of years of the revenue horizon or to require the</p>	<p>This change authorizes the Province to prescribe the ‘revenue horizons’ over which gas utilities are permitted to amortize the cost of new connections to the natural gas distribution system. While</p>



## Appendix “A” to Report PED24052

## Page 3 of 5

Summary of Proposed Change	Comments
<p>Board to hold a hearing to determine revenue horizons.  “Revenue horizon” means the number of years of presumed revenue that is used for the purposes of section 36 in determining:</p> <ul style="list-style-type: none"> <li>a) the economic feasibility of, <ul style="list-style-type: none"> <li>(i) a new consumer connection to the natural gas distribution system, or</li> <li>(ii) an increase in the capacity of the natural gas distribution system, and</li> </ul> </li> </ul> <p>the amount, if any, of a contribution in aid of construction required from a consumer in relation to a connection or increase described in clause (a).</p> <p>The Bill provides that this entire section 36.0.1 is to be repealed on the earlier of January 1, 2029 and a day to be named by proclamation of the Lieutenant Governor.</p>	<p>the authorization is for a time-limited period, it empowers the Province to intervene in areas historically under the purview of the OEB as the independent energy regulator. The change contributes to a problematic blurring of the roles of the OEB and the Province where energy matters are concerned.</p> <p>The Province, through the Minister of Energy, has already indicated its intent to immediately reinstate the 40 year revenue horizon for new residential connections to the system.</p> <p>As these changes are contrary to Council’s position on the OEB decision, these changes are not supported as proposed.</p>
<p>Section 91 repealed and replaced resulting in addition of 91(2) (2):  For greater certainty, a person who has obtained an exemption from the requirements of subsection 90 (1) may make an application under subsection (1) of this section in respect of the exempt hydrocarbon line.</p>	<p>This change is made to clarify that a person who has been exempted from s 90 (1) requirements, is still able to apply to the OEB for a leave to construct order for the exempted hydrocarbon line.</p>
<p>Section 95 already <b>allows</b> the Board to exempt persons from the leave to construct requirements in section 90 and 92 in special circumstances.  Amendments to this section would <b>require</b> the Board to make an order exempting persons from these requirements if the Board is satisfied the circumstances set out in the regulations have been met.</p>	<p>This change from an OEB ability to an OEB requirement again detracts from the independent role of the Board.</p> <p>The City of Hamilton does not support this change due to its potential to impact on the independent role of the OEB.</p>
<p>A new section 96.2 authorizes the Minister, subject to the Lieutenant Governor in Council’s approval, to issue</p>	<p>This change authorizes the Minister to undo an OEB decision to refuse a leave to construct order or to remove any</p>

## Appendix “A” to Report PED24052

## Page 4 of 5

Summary of Proposed Change	Comments
<p>directives providing that if a proposed natural gas transmission or dual-purpose transmission and distribution line specified by the directive is the subject of an application under section 90 of the Act for the Board’s leave to construct the line, the Board is subject to certain requirements in making its determination, set out in subsection 96.2 (1). A directive may apply with respect to an application that is already before the Board.</p> <p>The new section also provides authority for the Minister, subject to the Lieutenant Governor in Council’s approval, to issue a directive respecting any order made by the Board between February 22, 2024 and December 31, 2024 in which the Board refuses to grant leave to construct a proposed natural gas transmission or dual-purpose transmission and distribution line, or grants it subject to specified conditions. Such a directive <b>may require the Board to rescind the order and hold a new hearing, taking into account the requirements set out in subsection 96.2 (1).</b></p> <p><b>96.2 (1)</b> The Minister may issue, and the Board shall implement, directives that have been approved by the Lieutenant Governor in Council providing that if the construction of a proposed natural gas transmission or dual-purpose transmission and distribution line specified by the directive is the subject of an application under section 90,</p> <p>(a) the Board shall accept that it is in the public interest for such natural gas consumers as are specified in the directive to bear the full cost of the line; and</p>	<p>conditions that the OEB has placed on a leave to construct order related to natural gas transmission and distribution lines.</p> <p>The change also authorizes the Province to determine what is in the public interest regarding which customers should bear the full cost of transmission and distribution lines, and to issue directives specifying which customers are not required to pay a surcharge or contribution in aid of construction for certain natural gas distribution and transmission lines.</p> <p>These changes authorize the Province to direct the OEB to impose measures that could compromise the Board’s mission and mandate as the independent regulator of Ontario’s electricity and gas systems. Further, these changes could lead to the politicization of the decision making process of the OEB when this entity is meant to function independently of government in order to achieve its mandate to ensure the best interests of Ontarians are served where the regulation of our electricity and gas systems are concerned.</p> <p>The City of Hamilton does not support any changes to the OEBA that compromise the ability of the Board to uphold its established mission to ‘deliver public value through prudent regulation and independent adjudicative decision-making which contributes to Ontario’s economic, social and environmental development’.</p>

**Appendix "A" to Report PED24052****Page 5 of 5**

<b>Summary of Proposed Change</b>	<b>Comments</b>
(b) the Board may not require a contribution in aid of construction or surcharge to be paid by a natural gas consumer who will be connected to or served by the line.	

# CITY OF HAMILTON

## MOTION

Council: February 14, 2024

**MOVED BY COUNCILLOR C. CASSAR.....**

**SECONDED BY COUNCILLOR M. WILSON.....**

### **Support for the Decision of the Ontario Energy Board to End the Gas Pipeline Subsidy**

WHEREAS, residents are struggling with energy bill increases and need relief;

WHEREAS, natural gas is no longer the cheapest way to heat homes because electric heat pumps are now much more efficient, can provide all heating needs even in the cold climates, and result in far lower energy bills over the long term compared to gas heating;

WHEREAS, natural gas is methane gas, which is a fossil fuel that causes approximately one-third of Ontario's GHG emissions, and must be phased out because it is inconsistent with all climate targets, while heat pumps result in the lowest GHG emissions and are consistent with a zero-carbon future;

WHEREAS, the Ontario Energy Board ("OEB") decided to end a subsidy for methane gas pipelines to be built in new construction developments, effective 2025, finding that this would lower energy bills for existing gas customers and improve affordability for new homebuyers, but this decision is at risk of being overturned by the provincial government;

WHEREAS, the OEB decision will help lower energy bills and encourage heating systems that are consistent with climate targets and plans;

WHEREAS, the construction of *new* methane gas pipelines, which have 60-year lifetimes, should not be subsidized because they are inconsistent with the City's climate targets and will result in higher carbon emissions, higher energy bills, higher future decarbonization retrofit costs to get off fossil fuel heating, and a continued financial drain as dollars leave the province to pay for fossil fuels extracted in other jurisdictions;

WHEREAS, Hamilton City Council declared a climate emergency in 2019;

WHEREAS, transforming our buildings by supporting actions that improve the energy efficiency and GHG profile of new buildings within the City is one of 5 low-carbon transformations from ReCharge Hamilton, the City's Community Energy and Emissions Plan (CEEP); and

WHEREAS, the City of Hamilton is actively working to support the decarbonization of heating and cooling systems in existing and future building stock within the community, as demonstrated by the Better Homes Hamilton Home Energy Retrofit Pilot Program, which will provide 0% interest loans to up to 50 Hamilton homeowners to enable them to transition away from fossil-fuel powered heating and cooling equipment to low carbon air or ground source heat pump systems.

THEREFORE, BE IT RESOLVED:

- (a) That the City of Hamilton expresses its support for the decision of the Ontario Energy Board to end the gas pipeline subsidy and requests that the Ontario Government allow the decision to stand; and
- (b) That this resolution be circulated to the President of Association of Municipalities of Ontario, Colin Best; Premier of Ontario, Doug Ford; Minister of Energy, Todd Smith; Minister of Finance, Peter Bethlenfalvy and all Ontario Municipalities requesting support for the proposed changes.





# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Rental Housing Licensing Pilot Program Update (PED21097(e)) (Wards 1, 8 and part of 14)
<b>WARD(S) AFFECTED:</b>	Wards 1, 8 and part of 14
<b>PREPARED BY:</b>	Dan Smith (905) 546-2424 Ext. 6435
<b>SUBMITTED BY:</b>	Monica Ciriello Director, Licensing and Bylaw Services Planning and Economic Development Department
<b>SIGNATURE:</b>	<i>Monica Ciriello</i>

## COUNCIL DIRECTION

At its meeting on August 13, 2021, Council approved item 9 of Planning Committee Report 21-012 directing staff to report back to the Planning Committee every 6 months with an update on the Rental Housing Licensing Pilot Program for Wards 1, 8, and parts of 14.

## INFORMATION

This is the fourth information report on the status of implementing the Rental Housing Licensing Pilot Program (Pilot Program) for Wards 1, 8 and parts of 14, focusing on information from zones 1-7 collected between April 1, 2022 - December 31, 2023.

### Review of the Pilot Program

As of February 1, 2024:

- **821** rental housing licence applications have been received by the City's Licensing Section.
- **786** zoning verification applications have been processed by Zoning Examiners.
- **296** licensing compliance (property standards) inspections have been completed by the Licensing Compliance Officers; and
- **247** licenses issued.

---

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: Rental Housing Licensing Pilot Program Update (PED21097(e))  
(Wards 1, 8 and part of 14) - Page 2 of 3**

---

The average days to licence for a rental housing licence is approximately 60 days, inclusive of the administrative process, completion of electrical, fire and property standard inspections, coordinating date and times with the property owner and compliance of any outstanding requirements (orders, open building permits).

Attached as Appendix “B” to Report PED21097(e) details data that has been collected through the stages of the Rental Housing Licensing Pilot Program up to February 1, 2024.

**Trends to Date****Proactive Enforcement**

Each zone within the pilot wards had an application in-take period of 3 months. As of December 31, 2023, the proactive enforcement of the Rental Housing Licence By-law has begun in all 7 zones.

To date, Licensing Compliance Officers have proactively investigated 1289 properties in zones past their application period. These investigations have resulted in an increase in zoning verification applications and licence applications. Staff have identified 55.2% of all applications have been received as a direct result of proactive enforcement since the application period began. Dedicated proactive enforcement methods have resulted in additional applications and improved compliance percentages.

**Occupancy Change**

To date, 17 of the rental housing properties have been determined as lodging homes by Fire Prevention during their inspection (occupancy assessment). Five of these homes changed occupancy. This allowed the property owners to obtain a rental housing licence and avoid re-zoning the property to permit the lodging home, as a lodging home was not a permitted use within the zone. Three of these homes requested Fire re-assess the occupancy, ultimately resulting in the homes being determined as single detached dwellings.

The remaining 9 homes are currently in the process of changing the operations of their rental units to reflect that of a single housekeeping establishment (single detached dwelling). These properties also do not permit lodging homes under the City of Hamilton Zoning By-law.

**SUBJECT: Rental Housing Licensing Pilot Program Update (PED21097(e))  
(Wards 1, 8 and part of 14) - Page 3 of 3**

---

**Hamilton Fire Department – Fire Prevention Division**

The Hamilton Fire Department's Fire Prevention Division received 78 Rental Housing License applications in 2022, and 232 in 2023. As of October 29, 2023 215 applications had been fully processed (69%).

As the pilot program transitions from the voluntary application period into pro-active enforcement, the volume of overall pilot program applications and associated Fire Prevention inspections are increasing. As a result, the Fire Prevention Division will bring forward an information report as it relates to its role in the Rental housing Licensing Pilot Program.

**Comprehensive Review of the Pilot Program**

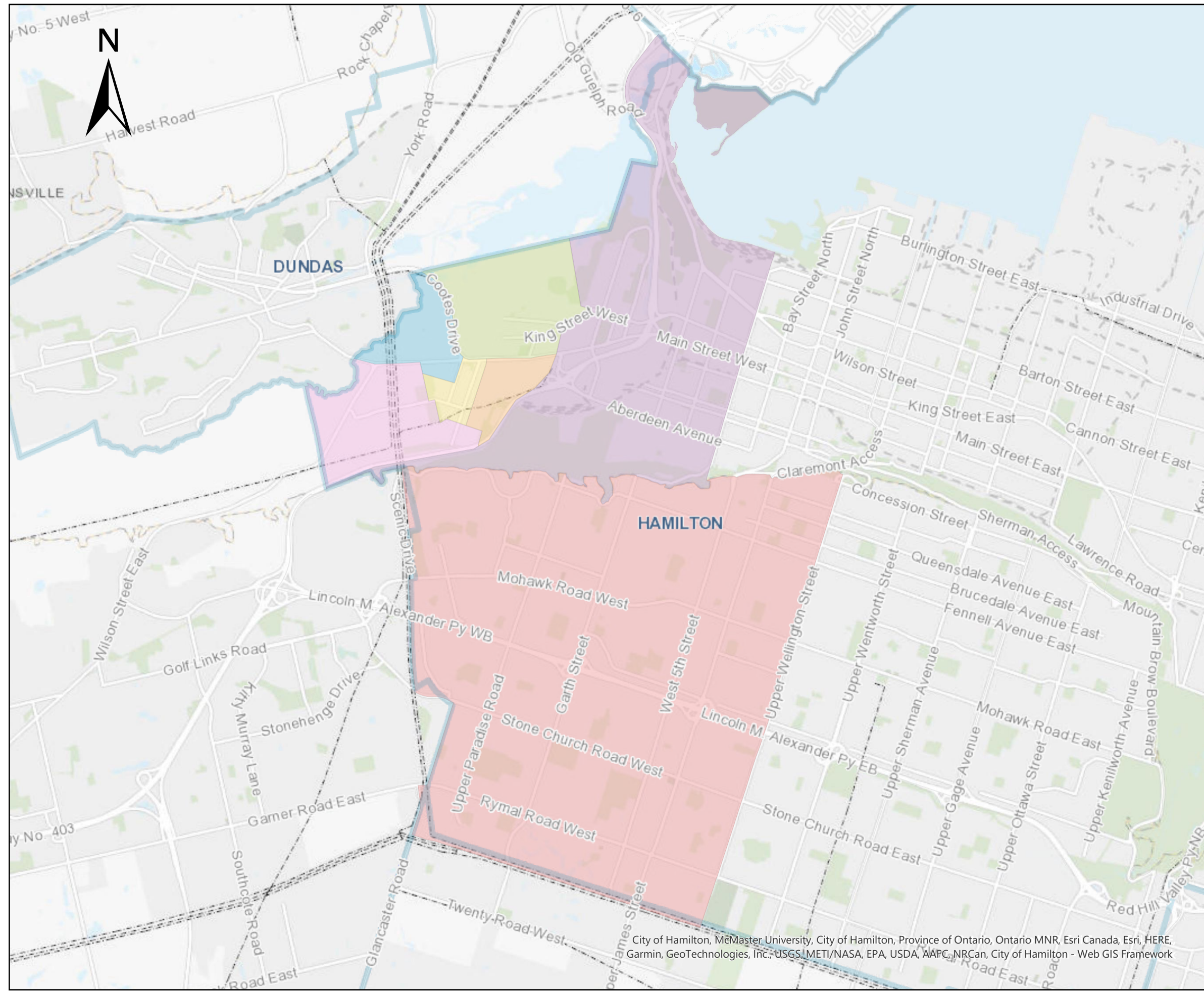
The pilot program will conclude December 31, 2025. A staff recommendation report to Planning Committee on a review of the pilot program will be completed in Q4 of 2025, prior to conclusion of the pilot.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED21097(e) – Rental Housing Pilot Program Map of Application Zones

Appendix "B" to Report PED21097(e) – Rental Housing Pilot Program Statistics





# Rental Property Licensing Pilot

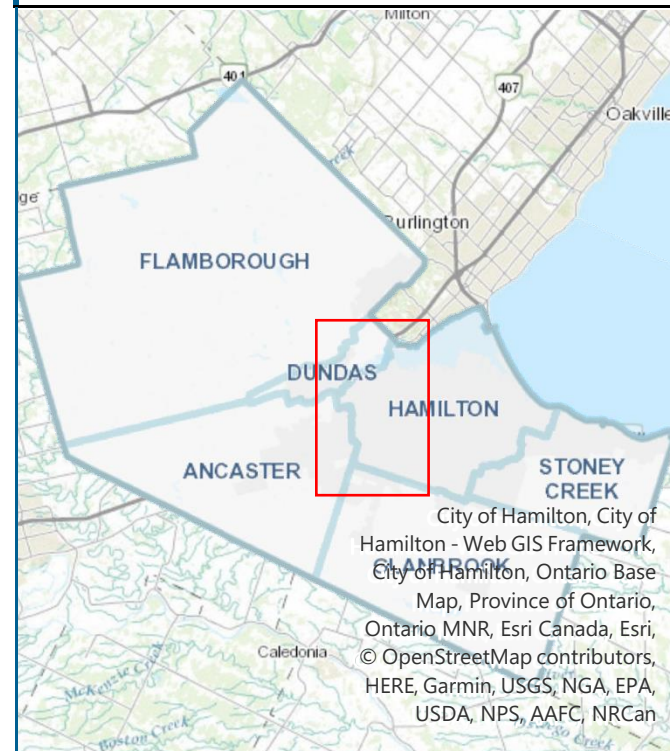
Wards 1, 8, and portion of 14

## Licensing Application Dates by Zone

Starting April 2022

- Zone 1: Applications Open April - June.
- Zone 2: Applications Open July - Sept.
- Zone 3: Applications Open Oct. - Dec. 2023
- Zone 4: Applications Open Jan. - March
- Zone 5: Applications Open April - June
- Zone 6: Applications Open July - Sept.
- Zone 7: Applications Open Oct. - Dec.

Note: Enforcement of licensing requirements will begin after each zone's application period has ended.



City of Hamilton, McMaster University, City of Hamilton, Province of Ontario, Ontario MNR, Esri Canada, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, METI/NASA, EPA, USDA, AAFC, NRCan, City of Hamilton - Web GIS Framework



## Rental Housing Pilot Program Statistics

### Application in-take period April 1, 2022 to February 1, 2024 for Zones 1 – 7:

- **821** rental housing licence applications have been received by the City's Licensing Section.
- **786** zoning verification applications have been processed by Zoning Examiners.
- **296** licensing compliance (property standards) inspections have been completed by the Licensing Compliance Officers.
- **247** licenses issued.

### 821 applications submitted:

- **72.8%** of the applications operate as single-family dwelling units.
- **19.6%** are duplexes (two-family dwelling units).
- The remaining **7.6%** are three and four family dwelling units.
- There is an average of **6** bedrooms per unit.

### Of the original 2000 suspected rental housing units

Status	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7
Applied	73.0%	77.9%	79.0%	65.2%	55.6%	50.0%	84.8%
Licensed	29.5%	34.5%	28.7%	16.1%	13.0%	11.2%	4.8%

### 247 licenses have been issued:

Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7
59	50	48	37	31	19	3

### During the licensing process:

- **79** rental properties were determined to be operating as illegal duplexes or triplexes.
- **21** of these properties were identified as a duplex via the fire inspection.
- **21** of these properties had an open building permit at the time of application to legalize a dwelling unit(s).
- **37** of these were identified through the zoning verification certificate, as not legally recognized. A building permit is required to recognize illegal dwelling units.


### Proactive work:

- **1389** mailouts providing education on requirements under the Pilot.
- **205** properties were identified as solely owner occupied through pro-active enforcement and or in response to pro-active mailouts.
- **210** Notice to Comply have been served to properties past the application period and requiring a licence.
- **17** Administrative Penalty Notice has been issued for non-compliance.





# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Demolition Control Area By-law Process (PED24075) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Jorge M. Caetano (905) 546-2424 Ext. 3931
<b>SUBMITTED BY:</b>	Alan Shaw Director, Building and Chief Building Official Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

Questions have been raised regarding our current process as it relates to the Demolition Control Area By-law (By-law No. 22-101). This report has been prepared to provide some background on demolition control and to explain the process.

## BACKGROUND

Section 33 of the *Planning Act* is the applicable law that regulates demolition control in the Province of Ontario. Section 33 permits a municipality to designate an area of the city as a demolition control area by by-law such that a residential property cannot be demolished until a demolition permit has been issued. This gives staff an opportunity to obtain necessary information from an applicant and conduct a full review to ensure that the demolition is following the appropriate requirements.

This section of the *Planning Act* also defines the terms “Dwelling Unit”, and “Residential Property” as follows:

- “Dwelling Unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

---

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: Demolition Control Area By-law Process (PED24075) (City Wide) -  
Page 2 of 6**

---

- “Residential Property” means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

These definitions have been incorporated into Hamilton’s Demolition Control Area By-law to specify what buildings can and cannot be subject to demolition control.

When a demolition permit is applied for, Council, or their delegate, may issue the permit or refuse to issue the permit. If the permit application is refused or a decision is not made within the specified time frame, the applicant can appeal to the Ontario Land Tribunal. However, if a replacement building permit has been issued to erect a new building on the site of the residential property to be demolished, Council or their delegate, shall issue a demolition permit once they’ve submitted an application. Under these types of applications, Council, or their delegate, may include the condition that the applicant construct and substantially complete the new building by at least two years from the date of the demolition. If the applicant fails to complete the new building within the time specified, municipalities are permitted to place a lien on the property of \$20,000.00 or less for each dwelling unit within the residential property to be demolished. If the applicant is not satisfied with the time requirement condition, they may appeal to the Ontario Land Tribunal for a variation of the condition. The lien or charge is to be collected as municipal property taxes.

If the applicant does not consider it possible to complete the new building within the time specified on the permit or if the permit holder believes that it is no longer economically feasible to construct the new building, the applicant may apply to Council for relief, which could include an extension of the completion date. Applicants are required to apply for relief before there are sixty days or less for the replacement building completion date specified on the permit. Council may also decide to extend the date specified on the permit at any time. The applicant may appeal the decision for relief to the Ontario Land Tribunal.

## **HAMILTON’S DEMOLITION CONTROL AREA BY-LAW**

The City of Hamilton’s current demolition control area by-law (By-law No. 22-101) came into force on April 22, 2022, and allows the City to regulate the demolition of residential buildings. The by-law was revised in 2022 to address concerns about premature demolition and the loss of significant heritage buildings. All the lands within the boundaries of the City have been designated as a demolition control area.

The intent of the demolition control area by-law is to maintain the integrity of residential neighbourhoods, to prevent the premature loss of dwelling units and the creation of vacant land, to retain existing dwelling units until new uses have been considered, and, to prevent the premature loss of municipal assessment.

---

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: Demolition Control Area By-law Process (PED24075) (City Wide) -  
Page 3 of 6**

---

The demolition control area by-Law does not apply to the following:

1. the demolition of a part of the Residential Property does not reduce the number of Dwelling Units;
2. the Residential Property is owned by the City and the demolition is required for the implementation of a City capital works project previously approved by Council, except if the Residential Property is designated under the *Ontario Heritage Act* or subject to an agreement, covenant, or easement for the conservation, protection or preservation of property of cultural heritage value or interest;
3. the Residential Property is a mobile home;
4. the owner of the Residential Property has entered into a demolition agreement with City;
5. the Residential Property is exempted under any federal or provincial statute or regulation;
6. the Residential Property has been found to be unsafe under section 15.9 of the *Building Code Act* and an order to demolish has been issued under that section without any option to repair; or,
7. an order has been issued under section 15.2 of the *Building Code Act* that the Residential Property be demolished without any option to repair.

Under subsection 33(3) of the *Planning Act* Council has the authority to issue or refuse to issue a demolition control permit. However, subsection 33(6) of the *Planning Act* states that council shall issue a demolition permit, subject to conditions, where a building permit has been issued to erect a new building on the site of the residential property proposed to be demolished.

Since subsection 33(6) of the *Planning Act* requires the issuance of a demolition control permit under specific conditions, Council, under Section 6 of Hamilton's demolition control area by-law, delegated the authority to issue demolition control permits to the Chief Building Official under certain conditions. An excerpt of Section 6 of the Demolition Control Area By-law No. 22-10 is provided below.

- "6. Council delegates to the Chief Building Official its authority to issue Demolition Control Approval pursuant to subsections 33(3) and 33(6) of the Planning Act for applications to demolish Residential Property where:*

---

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: Demolition Control Area By-law Process (PED24075) (City Wide) -  
Page 4 of 6**

---

- (a) *the erection of a new building is proposed on the site of the Residential Property to be demolished and where the following standard conditions apply:*
- i. *that the applicant seeking Demolition Control Approval has applied for and received a building permit for a replacement building on the property;*
  - ii. *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 for each Dwelling Unit contained in the Residential Property which sum:*
    1. *the City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes; and*
    2. *is a lien or charge on the property until paid; and*
  - iii. *that the applicant seeking Demolition Control Approval has registered on title to the property notice of conditions (i) and (ii) in a form satisfactory to the Chief Building Official and the City Solicitor.*
- (b) *Final Site Plan Control approval has been granted for redevelopment of the Residential Property to be demolished;*
- (c) *Draft Plan of Subdivision approval has been granted for redevelopment of the Residential Property to be demolished, for which the Subdivision Agreement has been registered and the preliminary grading and servicing conditions have been satisfied;*
- (d) *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; or,*
- (e) *the Residential Property has been severely damaged by a fire or natural disaster and the demolition has been recommended by a Professional Engineer licensed to practice in Ontario.”*

For clarification, subsection 6(b) above even applies if the residential use is legal non-conforming. However, if a Site Plan has been approved for a non-residential building (industrial, commercial, or institutional), this subsection allows a demolition permit to be

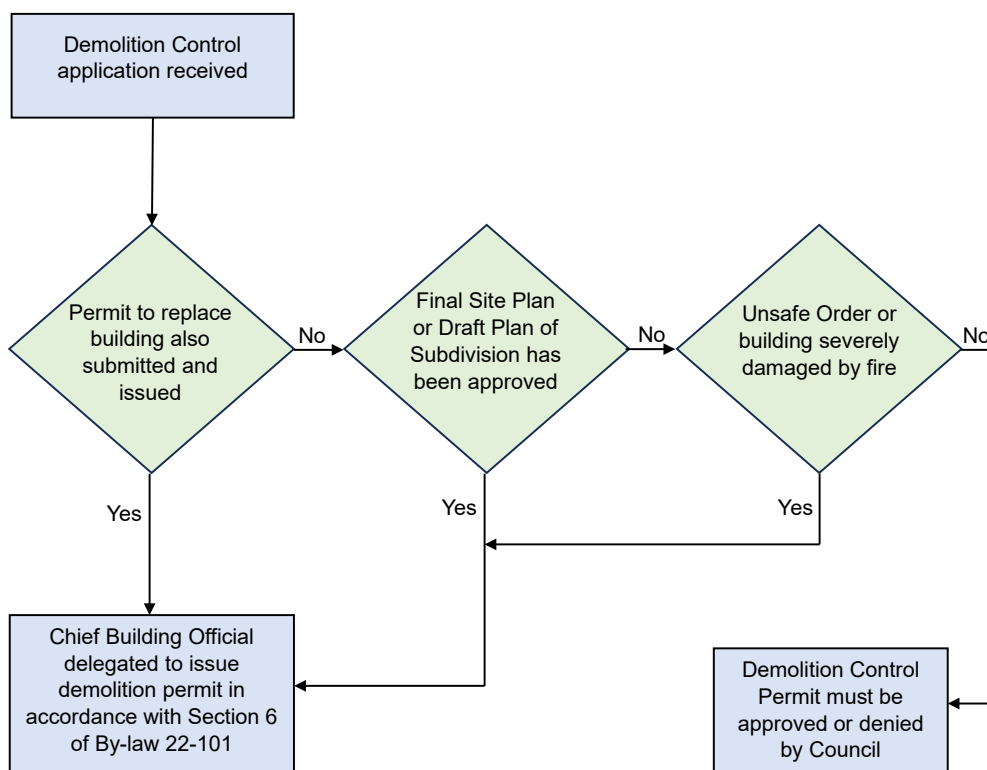
**SUBJECT: Demolition Control Area By-law Process (PED24075) (City Wide) -  
Page 5 of 6**

---

issued for the residential building so that the industrial, commercial, or institutional development can proceed.

If an application is made to demolish a residential building and it does not fall under one of the above noted conditions than the demolition control permit has to be approved or denied by Council. This can be done by having staff prepare a report outlining the reasons why an applicant wishes to demolish a residential building without complying with one of the conditions noted above. This report would then have to go before the Planning Committee, and ultimately Council for approval or denial. However, since it can take up to 6 weeks for this process to take place applicants have, on occasion, asked their Ward Councillor to walk on a motion at the Planning Committee in order to speed up the process and attempt to get their demolition control permit without having to comply with the conditions of Section 6 of the demolition control area by-law (excerpt of Section 6 provided above). Applicants can also ask to appear as a delegate at a Planning Committee meeting to present their reasons why they feel a demolition control permit should be issued (see flow chart below).

**DEMOLITION CONTROL AREA BY-LAW NO. 22-101 PROCESS FLOW CHART**




---

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: Demolition Control Area By-law Process (PED24075) (City Wide) -  
Page 6 of 6**

---

It should also be noted that an applicant can appeal to the Ontario Land Tribunal if Council refuses to issue a demolition control permit, if Council fails to make a decision on the application for a demolition permit, or if the applicant does not agree with the timeline and fine amount imposed by Council as a condition when it issued the demolition permit.


**APPENDICES AND SCHEDULES ATTACHED**

Not applicable.

JMC:II



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	455 King Street East and 457- 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	RJ Reddy (905) 546-2424 Ext. 2547
<b>SUBMITTED BY:</b>	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That Licensing and By-law Services be authorized to demolish the vacant and adjoining properties located at 455 King Street East and 457- 459 King Street East, in Hamilton and that the associated fees for carrying out the work be added to the property tax rolls for the corresponding properties.
- (b) That the amending By-law to City of Hamilton By-Law 23-162, a By-law to Prescribe Standards for the Maintenance and Occupancy of Property, attached as Appendix "A" to Report PED24048 be approved, which increases the maximum dollar amount that the Director of Licensing and By-Law Services is authorized to approve for completion of necessary work required for compliance with Property Standards Orders from \$20,000 to \$50,000.

### EXECUTIVE SUMMARY

The purpose of this report is to recommend demolition of the properties located at 455 King Street East and 457- 459 King Street East, as a result of non-compliance with

---

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: 455 King Street East and 457- 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3) - Page 2 of 6**

---

Property Standards Orders issued by Municipal Law Enforcement that expired on August 30, 2023. The existing buildings are vacant, in a state of extreme disrepair and continue to deteriorate in their current condition. Timely action by staff is required in order to resolve the health and safety risks associated with the building's current condition. The City is in a position to remediate the deficiencies stated on the Orders by either repair or demolition of the buildings.

Staff have evaluated the financial implications, the current significant use of City resources and the continued non-compliance of the state of the buildings. As a result, staff recommend that demolition of the buildings located at 455 King Street East and 457- 459 King Street East is the prudent option to remediate the vacant and deteriorated properties.

The cost to demolish has been received and evaluated by staff. Costs exceed the maximum amount that can be approved by the Director of Licensing and By-law Services under section 31(7) of the Property Standards By-law 23-162 and thereby requires Council approval.

This report also recommends an increase to the maximum dollar amount (from \$20,000 to \$50,000) that the Director of Licensing and By-Law Services is permitted to approve to carry out work required to achieve compliance with City orders.

**Alternatives for Consideration – See Page 6**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The total estimated cost for demolition to grade of the buildings at 455 King Street East and 457- 459 King Street East is \$242,246, as detailed in the engineer's report attached as Appendix "B" to Report PED24048, the costs will be added to the property tax roll for the corresponding properties.

**Staffing:** Not Applicable

**Legal:** Not Applicable

**HISTORICAL BACKGROUND**

455 King Street East and 457- 459 King Street East are connected properties consisting of three-story buildings that were of mixed residential and commercial use but have

**SUBJECT: 455 King Street East and 457- 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3) - Page 3 of 6**

---

been vacant since approximately 2022. The buildings are divided into three municipal addresses, #455, #457 and #459.

On or about August 5, 2022, the Building Division received an unsafe building complaint from Hamilton Fire Department and Hamilton Police Service. The Building Division determined a portion of the street-facing brick masonry for the property at 457 King Street East had collapsed onto the sidewalk and roadway below. The adjacent building at 455 King Street East had cracks along the firewall which adjoins the two buildings and the parapet walls appeared to be leaning. An engineering assessment arranged by the Building Division revealed that wooden beams along the front faces of the buildings had suffered long-term deterioration which compromised the structural stability of the street-facing walls.

On August 5, 2022, the Building Division issued Orders to Comply to the property owner to address the unsafe element of the building. The Building Division's Orders prohibited occupancy of the properties and required the owner to obtain an independent engineering report to both monitor the properties' stability and conduct a full structural assessment for the purpose of restoration. The Orders also required the property owner to provide a temporary and permanent solution to the deficiencies. Due to the structural safety concerns, Hamilton Police Service and Hamilton Fire Department assisted in removing the tenants of the 6 occupied units in the buildings. The property owner did not comply with the Building Division's Orders.

As a result of non-compliance, the Building Division took reasonable steps to remediate the Order by arranging the buildings to be made safe. To prevent further collapse, street-facing brick masonry was removed from the properties and temporary fencing around the properties was installed, as recommended by the engineers. Additionally, road access to King Street East, Emerald Avenue North and East Avenue North was blocked.

In January 2023, Municipal Law Enforcement received the file for 455 King Street East and 457- 459 King Street East from the Building Division. From January to April 2023, Municipal Law Enforcement attended the properties on several occasions to conduct inspections. On May 1, 2023, Municipal Law Enforcement staff issued two Property Standards Orders; one for the property at 455 King Street East, and the other for the properties at 457- 459 King Street East. The Property Standards Orders required the owner to obtain the necessary engineering report, and to effect repairs to the properties (with permits) or demolish the buildings.

**SUBJECT: 455 King Street East and 457- 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3) - Page 4 of 6**

---

The Property Standards Orders were appealed by the property owner to request additional time to complete the necessary repairs. A hearing was held before the Property Standards Committee and as a result the compliance date was extended from July 2, 2023 to August 30, 2023.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Staff's review considered the following applicable provincial legislation:

- *Municipal Act, 2001, S.O. 2001, c.25*
- *Building Code Act, 1992, S.O. 1992, c.23*

## **RELEVANT CONSULTATION**

In preparing the recommendations and alternative highlighted herein, the following internal divisions were consulted:

- Corporate Services Department, Legal and Risk Management Services Division, Legal Services;
- Planning and Economic Development Department, Corporate Real Estate Division;
- Planning and Economic Development Department, Licensing & By-law Services Division;
- Planning and Economic Development Department, Building Division; and,
- Hamilton Police Service

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

### **Impact**

The state of the vacant properties at 455 King Street East and 457- 459 King Street East have resulted in significant use of City resources, including but not limited to; Hamilton Police Service, Municipal Law Enforcement, Hamilton Fire Department and the Building Division.

The unattended vacant buildings have resulted in an increase in criminal activity in the area. Since 2022 Hamilton Police Service have received ongoing calls for service to 455 King Street East and 457- 459 King Street, which have resulted in an officer being dispatched to that property. The most common call for service that an officer responded to were violent crime and crimes including; assaults, disturbances, shootings, and other weapon related calls. Hamilton Police Service continues to respond to ongoing non-emergency calls for property theft and trespassing at the properties. Hamilton Police

---

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: 455 King Street East and 457- 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3) - Page 5 of 6**

---

Service does not have the ability to recoup the emergency service costs associated with responding to calls for service at 455 King Street East and 457 - 459 King Street East. Since January 2023, Municipal Law Enforcement staff have had many interactions with the property for several By-law violations. Municipal Law Enforcement staff have issued a total of 9 Orders for 455 King Street East and 457- 459 King Street East for violations of the Property Standards By-law 23-162, Vacant Building By-law 17-127 and Yard Maintenance Bylaw 10-118. These Orders have been reactive in nature and were in response to complaints received. As a result of non-compliance with the Orders, \$7,861.75 in charges has been applied to the property tax rolls in the form of fees for service, administrative penalty notices and related administrative fees for contractor completed work.

The Building Division has also assessed significant costs to the owners tax role, through continued involvement with 455 King Street East and 457- 459 King Street East. Initial costs to make the building safe was approximately \$240,000. Monthly costs continue to be incurred for the rental of the temporary fencing around the perimeter of the building. (All costs incurred have been, continue to be applied to the property owner(s) tax role).

Due to the deteriorated state of the buildings at 455 King Street East and 457- 459 King Street East, both the northernmost lane on King Street East and the sidewalk adjacent to the properties continue to be blocked by the temporary fencing to avoid risks associated with the potential collapse of the buildings or falling debris. As a result, vehicle and pedestrian traffic have been impacted. Staff receive ongoing complaints regarding the blocked lane and sidewalk. Staff's recommendation to demolish would result in the expedient removal of the temporary fencing and would restore full access to the sidewalk and roadway.

Based on the factors above, and in consultation with various departments staff recommend demolition to address the deficiencies at 455 King Street East and 457- 459 King Street East. The current state of the vacant properties poses an immediate health and safety risk and will continue to further deteriorate if no action is taken to remediate the issues. Staff's recommendation involves a larger upfront cost of \$242,246, compared to repairing the building at a cost of \$222,092. Demolition would allow for a timelier remediation of the properties and would reduce the significant use of City resources. City staff note that the current condition of the buildings after the emergency removal of the façade is critical. It has been recommended by the City's retained structural engineer to expedite the restoration or demolition process as all supporting elements are now left exposed to weather and wind conditions which worsen the overall condition of the buildings.

---

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: 455 King Street East and 457- 459 King Street East Demolition and Administrative Updates to By-Law 23-162, a By-Law to Prescribe Standards for the Maintenance and Occupancy of Property (PED24048) (Ward 3) - Page 6 of 6**

---

**Increase to Authorized Amount to Carry out Repairs under By-law 23-162**

Furthermore, staff recommend increasing the maximum dollar amount that the Director of Licensing and By-law Services is permitted to approve to carry out the work required to achieve compliance with City orders. The Property Standards Bylaw, 23-162, identifies the maximum dollar amount at \$20,000 per order, consistent with the previously repealed Property Standards By-Law 10-221. Staff are proposing an increase to \$50,000 per order. The increase in dollar amount would reduce the number of cases brought before Council for approval and would thereby establish efficiencies and expediate compliance in the Licensing and By-law Services' work request approval process.

**ALTERNATIVES FOR CONSIDERATION**

In the alternative, Council may consider approving the cost to repair the buildings at 455 King Street East and 457- 459 King Street East to achieve compliance with the City's Orders. Engineer reports arranged by the City estimate the total cost for repair of the buildings at 455 King Street East and 457- 459 King Street East to be \$222,092, attached as Appendix "B" to Report PED24048. This amount does not account for the extent of repairs and scope of work suitable for occupancy of the building and only addresses the deficiencies listed in the Property Standards' Orders.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24048 – Amending Bylaw to Bylaw 23-162  
Appendix "B" to Report PED24048 – Engineer Report 24-02-21

**Appendix “A” to Report PED24048  
Page 1 of 1**

**Authority:** Item ,  
Report (XXXXXXX)  
CM:  
Ward: City Wide

**Bill No.**

**CITY OF HAMILTON  
BY-LAW NO. 24-xxx**

**To Amend By-law 23-162, a By-law to Prescribe Standards for the Maintenance and Occupancy of Property**

**WHEREAS;** Council enacted the Property Standards By-law 23-162 on September 13, 2023; and

**WHEREAS** this By-law amends By-law No. 23-162 to increase the Director’s authority to carry out work necessary for compliance with property standards orders issued under By-law 23-162.

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

1. That By-law 23-162 be amended by repealing subsection 31 (7) and replacing it with the following:  
“31 (7) Where the cost of doing the work necessary for compliance with the property standards order under subsection 31 (4):
  - (a) does not exceed \$50,000.00, the Director is authorized to carry out the work;
  - (b) does exceed \$50,000.00, the Director shall seek authorization from City Council to carry out the work.”
2. That in all other respects, By-law 23-162 is confirmed; and
3. That the provisions of this by-law shall become effective on the date approved by City Council.

**PASSED** this \_\_\_\_\_ , 2024

\_\_\_\_\_  
A. Howarth  
Mayor

\_\_\_\_\_  
J. Pilon  
Acting City Clerk



February 21, 2024

Kim Coombs, CMM III MLE Executive  
City of Hamilton Property Standards/By-laws  
71 Main Street West, 3rd Floor  
Hamilton, Ontario  
L8P 4Y5

---

## Cost Consulting Analysis of Building Façade Collapse Damage

Owner: Ellia Kitchen & Sheila's Place  
Location: 455-457 King St East Hamilton  
Order to Comply No.: 22-114801 00 MLE  
Our File No.: 2208-0503-ZP

---

Per your request, Element Consulting Services was retained to prepare cursory estimates for the options of repair pertaining to the by-law order (No. 23-114801 00 MLE). Further to our initial scope of involvement, our office was requested to provide a more detailed breakdown of the costing associated with the options for repair.

To conduct our field review and site documentation, our office attended the site on February 14, 2024. This is the third report prepared by our office. Our first report provided cursory costing estimates for the requested scope of work.

The incident building comprised three storeys of mixed commercial and residential use. The building was divided into four addresses, #455 (west end), #457, #459, and #461 (east end). It is our understanding that #459 was the kitchen under #457. For reference purposes within this report, #459 is understood to be a part of #457 and will share any associated recommendations. The overall complex appeared to have a building area<sup>1</sup> greater than 6,458 sqft (600m<sup>2</sup>), however it was subdivided by firewalls along the property lines.

The building was reported to be approximately 122 years old, having been constructed in 1900. The building superstructure<sup>2</sup> comprised multi-wythe brick perimeter walls and firewalls with conventional wood framed interior walls, floors, and roof structures.

---

<sup>1</sup> Building area means the greatest horizontal area of a building above grade, within the outside surface of exterior walls, or within the outside surface of exterior walls and the centerline of firewalls.

<sup>2</sup> Superstructure – the above grade component of the building



The roof was constructed with roof joists in a flat/very low slope configuration, with mansard roof projections that extended from level 3 of #455, #457, and #459. The roof was sheathed in plank board and surfaced with a membrane roofing application. The roof membrane assembly had not been confirmed at the time this report was prepared.

The interior surfaces (walls and ceiling) were predominantly finished with a mix of gypsum board and lath and plaster.

The purpose of this report is to provide further commentary and breakdown of the costs for the options of repair. Option 1 is a full demolition of the building superstructure down to the foundation. We have included the associated breakdown to reconstruct the building for reference purposes. Option 2 is a restoration approach to repair the visibly damaged elements to return the building to a stable condition. The options were explored to address the requirements outlined in the municipal by-law order issued by the City of Hamilton.

The estimated values are based on the scope of work required to repair and address the emergency measures (ie. demolition of the front elevation) that have been conducted to date. We have not accounted for the extent of repairs and scope of work suitable for occupancy.

The cost estimate was formulated using Xactimate which provides a breakdown of the various categories and considers factors such as market prices, industry standards, and our expertise in cost analysis. In reviewing the cost estimate, it is important to note that the values may be subject to change with time and market fluctuations. The following breakdown does include Overhead, Profit and Taxes.

**Option 1A - Demolition:**

Division	Category/Description	COSTS
1	General Requirements – Site supervisor, Engineering, Building materials Temporary toilet/wash station, Scaffolding	\$46,054.00
2	Municipal Services – Removal of Water, gas hydro	\$7,500.00
3	Salvage – Metal staircase, Electrical. HVAC, Plumbing, Metals	\$0.00
4	Demolition – Removal of structure to grade & disposal	\$66,887.00
5	Rough Carpentry – Removal of joining superstructure components by hand in unit 457, Install synthetic stucco wall cladding to seal neighbouring wall 461 to protect against the elements.	\$55,357.00
6	Landscape – Surrounding site protection, back fill basement	\$46,357.00
7	Miscellaneous - DSS reporting	\$2,760.00





8	Miscellaneous – Security	\$17,600.00
<b>Grand Total:</b>		<b>\$242,246.00</b>

**Option 1B - Reconstruction:**

Division	Category/Description	COSTS
1	General Requirements - Site supervisor, Engineering, Building materials Temporary toilet/wash station, Scaffolding	\$123,544.00
2	Foundation – New poured footings and foundation system,	\$90,091.00
3	Masonry – Double wythe masonry wall to match existing.	\$675,356.00
3	Windows & Doors – Level 1 curtain walls, aluminum, wood, and vinyl windows & doors to match existing.	\$38,854.00
4	Exterior Finishes – Metal staircase, window covering	\$6,140.00
5	Framing Rough Carpentry – Floor & ceiling joists, sub floor, staircase for all units, and required framing to match existing.	\$205,964.00
6	HVAC – New HVAC system for all levels.	\$121,135.00
7	Plumbing – New plumbing system for all levels.	\$35,033.00
8	Electrical – Meters, panels, wiring, plugs, receptacles, light fixtures.	\$97,735.00
9	Interior finishes – Plaster walls and ceilings, drywall, baseboards, doors and jambs, casement, paint, flooring, kitchen cabinetry and washrooms.	\$530,990.00
10	Roofing – Modified bitumen roof system and flashings.	\$37,248.00
11	Landscaping – Decks, walkway, parking area.	\$43,866.00
<b>Sub Total:</b>		<b>\$2,005,956.00</b>

**Option 2 - Restoration:**

Division	Category/Description	COSTS
1	General Requirements	\$38,327.00
2	Demolition & Temporary Measures	\$49,333.00
3	Structural/Framing & Rough Carpentry	\$26,852.00
4	Exterior Finishes Doors & Windows	\$27,306.00



5	Masonry	\$42,685.00
6	HVAC	\$4,017.00
7	Electrical	\$2,411.00
8	Miscellaneous – DSS Reporting	\$5,184.00
9	Miscellaneous – Site security	\$25,972.00
<b>Sub Total:</b>		<b>\$222,092.00</b>

It is our understanding that the adjacent building #461 is structurally independent of the incident building. However, pending the option for repair, we recommend the owner of the adjacent building owner retain the services of an appropriate professional to provide commentary on any associated measures to protect and/or mitigate damage to the building, as applicable..

We trust you find everything in order with our analysis. Should you have any questions or concerns please feel free to contact us.

Sincerely,

**Mike Kulawic, CFEI**  
 Cost Consultant  
 Report # 6 – 455-457 King St E



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 16, 2024
<b>SUBJECT/REPORT NO:</b>	Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13)
<b>WARD AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	David Bonaventura (905) 546-2424 Ext. 3364
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

That Council gives approval to the following actions, as detailed in Report PED24034, respecting Committee of Adjustment Consent application FL/B-23:82 and Minor Variance application FL/A-23:312 submitted by Arcadis c/o Mike Crough, on behalf of Theresa and William Slemko (owners), for the lands located at 764 Valens Road, Flamborough, as shown on Appendix "A" attached to Report PED24034, granted by the Committee of Adjustment but recommended for denial by the Planning and Economic Development Department:

- (a) That Council of the City of Hamilton proceed with the appeal to the Ontario Land Tribunal against the decision of the Committee of Adjustment to approve Consent application FL/B-23:82 and Minor Variance application FL/A-23:312;
- (b) That Council directs appropriate Legal Services and Planning staff to attend the future Ontario Land Tribunal hearing in opposition to the decision of the Committee of Adjustment to approve Consent application FL/B-23:82 and Minor Variance application FL/A-23:312.

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 2 of 10**

---

## **EXECUTIVE SUMMARY**

The applicant, Arcadis c/o Mike Crough, on behalf of Theresa and William Slemko (owners), submitted Consent application FL/B-23:82 and Minor Variance application FL/A-23:312 to permit the severance of a parcel of land for residential purposes and to vary the minimum lot area for the severed and retained lands as well as to reduce the side yard setback to recognize an existing barn, on lands municipally known as 764 Valens Road in Flamborough, as shown in the location map attached as Appendix “A” to Report PED24034.

The severed lands are proposed to have an area of 0.25 hectares while the retained lands will have an area of 26.2 hectares. There is an existing single detached dwelling located on the severed lands and the retained lands are used for agricultural purposes. The application indicated that the Consent to Sever was required to re-establish two lots that had inadvertently merged on title as a result of a previous Consent application in 2005. This application (FL/B-05:231) transferred a portion of the subject lands to a parcel immediately to the south municipally known as 674 Valens Road.

Staff recommended that the Consent and Minor Variance applications be denied at the January 18, 2024 Committee of Adjustment hearing as the proposal did not have sufficient regard for Section 51(24) and Section 45(1) of the *Planning Act* nor did it comply with the policies of the Rural Hamilton Official Plan (refer to Appendix “B” attached to Report PED24034 for staff comments).

The Committee of Adjustment granted approval of Consent application FL/B-23:82 and Minor Variance application FL/A-23:312 at the January 18, 2024, hearing without applying recommended conditions from staff that were included in staff comments to the Committee of Adjustment if they were to grant the Consent application (refer to Appendix “B” attached to Report PED24034).

Under the *Planning Act*, appeals must be filed within 20 days of the date of giving notice of the decision. As such on February 5, 2024, Planning and Economic Development staff submitted an appeal letter, and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process subject to Council’s approval/ratification. Staff recommend proceeding with the appeal. A hearing date has been not yet been set.

## **Alternatives for Consideration – See Page 10**

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 3 of 10**

---

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Planning staff has submitted the required fee of \$800 to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs for the Hearing are covered by the respective Departmental Work Programs/Budgets.

**Staffing:** One representative from Legal Services, one representative from the Development Planning Section, and one representative from Source Protection Planning would be required for the preparation and attendance at the Ontario Land Tribunal hearing.

**Legal:** No legal implications are expected.

**BACKGROUND**

The applicant, Arcadis c/o Mike Crough, on behalf of Theresa and William Slemko (owners), submitted Consent application FL/B-23:82 and Minor Variance application FL/A-23:312 to permit the severance of a parcel of land for residential purposes on lands municipally known as 764 Valens Road in Flamborough, as shown in the location map attached as Appendix “A” to Report PED24034. The severed lands, identified as Lands to be Severed on the submitted Severance Sketch attached as Appendix “C” to Report PED24034, have a frontage of 50.3 metres and lot area of 0.25 hectares. The retained lands, identified as Lands to be Retained on the submitted Severance Sketch, have a frontage of 468.1 metres and lot area of 26.2 hectares.

On November 10, 2023, the applicant submitted concurrent Consent to Sever and Minor Variance applications to permit the conveyance of a parcel of land to re-establish two parcels that were inadvertently merged in title. The applicants noted the parcels merged in title as a result of a previous Consent application (FL/B-05:231) in 2005. In Consent application FL/B-05:231, a portion of the subject lands was transferred to neighbouring lands to the south, known municipally as 674 Valens Road and as Part 1 on Reference Plan 62R-17432. The proposed severed residential parcel, being Part 4 on Reference Plan 62R-17114 and Part 1 on Reference Plan 62R-8514, and which was previously severed from the farm parcel in 1987, was merged on title with the adjacent farm parcel, being Parts 1, 2 and 3 on Reference Plan 62R-17114.

The proposed retained and severed lands do not conform to the minimum required lot areas for single detached dwellings or agricultural uses within the Rural (A2) Zone and the existing barn structure does not meet the minimum 15.0 metre side yard setback.

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 4 of 10**

---

Staff comments recommended the Consent to Sever and Minor Variance applications be denied as the proposal did not meet Section 51(24) and 45(1) of the *Planning Act* and did not comply with the policies of the Rural Hamilton Official Plan (see Appendix “B” attached to Report PED24034). The Committee of Adjustment granted approval of Consent and Minor Variance applications FL/B-23:61 and FL/A-23:312 on January 18, 2024, notwithstanding the recommendations by staff in the staff report, including potential conditions of approval (refer to the decision attached as Appendix “B” to Report PED24034).

On February 5, 2024, Development Planning staff submitted an appeal letter, and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process, subject to Council’s approval/ratification.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENT**

### ***Planning Act***

The application has been reviewed with respect to the criteria of the *Planning Act*.

### **Powers of the Committee of Adjustment**

“44(1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable. R.S.O. 1990, c. P.13, s. 44 (1).

45 (1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s. 45 (1); 2006, c. 23, s. 18 (1); 2009, c. 33, Sched. 21, s. 10 (11).

### **Plan of Subdivision Approvals**

51(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 5 of 10**

---

disabilities and welfare of the present and future inhabitants of the municipality and to,

- (c) Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) The suitability of the land for the purposes for which it is to be subdivided;
- (f) The dimensions and shapes of the proposed lots;
- (i) The adequacy of utilities and municipal services.

### **Consents**

53(1) An owner, chargee or purchaser of land, or such owner's, chargee's or purchaser's agent duly authorized in writing, may apply for a consent as defined in subsection 50(1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 2021, c. 25, Sched. 24, s. 4 (1).

53(12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51 (24) and has the same powers as the approval authority has under subsection 51 (25) with respect to the approval of a plan of subdivision and subsections 51 (26) and (27) and Section 51.1 apply with necessary modifications to the granting of a provisional consent. 1994, c. 23, s. 32."

Staff are of the opinion that the effect of the application to sever a parcel of land for the purposes of residential uses does not comply with the policies of the Rural Hamilton Official Plan. Through the review of the Consent to Sever application, staff determined the proposed severed parcel would not be an appropriate size to support typical daily sewage flows from a residential dwelling as it is proposed to be serviced by private water and wastewater services.

Based on the foregoing, the Consent to Sever application does not have regard for the criteria for the subdivision of land under the *Planning Act* and should be denied. Similarly, the Minor Variance application does not meet the four tests of a minor variance described by the *Planning Act* and should be denied.

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 6 of 10**

---

### Provincial Policy Framework

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the Provincial Policy Statement (2020).

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Land Tribunal approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g., protection of agricultural resources, orderly development, efficiency of land use and balanced growth) are reviewed and discussed in the Rural Hamilton Official Plan analysis below.

### Rural Hamilton Official Plan

The subject site is designated “Rural” within Schedule D – Rural Land Use Designation. The following policies, amongst others, apply to the proposal.

- “F.1.14.2.1 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations: (OPA 18)
- a) Severances that create a new lot for the following purposes shall be prohibited:
    - i) Residential uses except in accordance with:
      - 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,
      - 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;
  - b) Severances that create a new lot(s) may be permitted for only the following purposes:

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 7 of 10**

---

- vii) In the Rural designation only, non-agricultural uses which may only be permitted in accordance with Sections D.4.1, F.1.14.2.1, and F.1.14.2.3;
- c) All proposed severances that create a new lot shall:
  - i) Comply with the policies of this Plan including a rural settlement area plan where one exists;
  - ii) Be compatible with and not hinder surrounding agricultural operations;
  - iii) Conform to the Zoning By-law;
  - iv) Only be permitted where both severed and retained lots have frontage on a public road; and,
  - v) Meet the requirements of Section C.5.1, Private Water and Wastewater Services.

F.1.14.2.3 In the Rural designation, severances that create a new lot, except surplus farm dwelling severances, may be considered only for agricultural uses, agriculture-related uses, existing rural resource-based commercial uses, existing rural resource-based industrial uses, and existing rural institutional uses, provided all of the relevant conditions of Section D.4.1 and the following conditions are met.

- a) New lots for agricultural uses and agriculture-related uses shall demonstrate by a report prepared by an accredited professional knowledgeable in farm economics, such as an agrologist or agronomist, that the proposed agricultural lot(s) is(are) of sufficient size and nature to be reasonably expected to:
  - i) Sustain a commercially viable farm operation;
  - ii) Allow farm operators the flexibility to change the existing and proposed farm operation in the event of business failure; and,
  - iii) Allow farm operators the flexibility to diversify and intensify the production of agricultural commodities in response to changing economic conditions and trends in agriculture;
- b) The City may request comments on the report required in F.1.14.2.3 a) from the Province or an independent peer reviewer, at the expense of the applicant, prior to consideration of the new lot for severance approval.

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 8 of 10**

---

- C.5.1.1 No draft, conditional, or final approval of development proposals shall be granted by the City for any development in Rural Hamilton that could impact existing private services or involves proposed private services until the development proposal has complied with all of the following: (OPA 23)(OPA 26)
- c) The minimum size for a new lot proposed in an application for a severance, lot addition or draft plan of subdivision with an existing or proposed private water system and/or existing or proposed private sewage disposal system shall:
    - i) Be the size required to accommodate the water system and sewage disposal system with acceptable on-site and off-site impacts;
    - ii) Shall include sufficient land for a reserve discharge site or leaching bed, as determined by the requirements in Policies C.5.1.1 a) and b); and,
    - iii) Not be less than 0.4 hectare (one acre) in size. The maximum lot size shall be in accordance with Policy F.1.14.2.1 f). (OPA 26)”

Staff note that the proposed Consent to Sever application is to re-establish two parcels of land that were merged in title as a result of a previous Consent application (FL/B-05:231) in 2005, where the proposed severed parcel (Part 4 in Reference Plan 62R-17114 and Part 1 in Reference Plan 62R-8514) merged with the farm parcel (Parts 1, 2 and 3 in Reference Plan 62R-17114). Staff note that the Rural Hamilton Official Plan does not contain a policy that speaks to the inadvertent merging of lands within the rural area of the City of Hamilton other than in the case of a dwelling made surplus as a result of farm consolidation. Due to the length of time passed since the merging of the lands, staff have reviewed the consent through the existing policy framework of the “Rural” land use designation. In addition to Development Planning comments provided for the Consent to Sever application, Source Protection Planning were also not in support.

Noting Policy C.5.1 of the Rural Hamilton Official Plan, Source Protection Planning deemed the proposed lot area of 0.25 hectares to be insufficient to meet policies within Section C.5.1 of the Rural Hamilton Official Plan and would put neighbouring properties at an increased risk regarding water quality and other health risks. Source Protection Planning staff determined that the minimum sustainable lot area would be 0.55 hectares, based upon the site specific surficial geology and typical wastewater flows from a three-bedroom dwelling, which is supported by a Scoped Hydrogeological Report completed by a qualified professional (P.Eng or P.Geo.).

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 9 of 10**

---

As such, staff are of the opinion that the Consent application does not maintain the general intent of the Rural Hamilton Official Plan policies that prohibit the creation of a new lot for residential purposes in the “Rural” designation except when a dwelling may be severed as a result of a farm consolidation or is located within a Rural Settlement Area. The proposed consent does not meet the criteria.

**City of Hamilton Zoning By-law No. 05-200**

The subject lands are zoned Rural (A2) Zone and Conservation / Hazard Land - Rural (P6) Zone. Staff note that the minimum lot area for a single detached dwelling within the Rural (A2) Zone and Conservation / Hazard Land - Rural (P6) Zone is 0.4 hectares and 40.4 hectares for agricultural uses. Staff note that the proposed severed and retained parcels do not conform to the zoning requirements for minimum lot area. Staff also note that the existing barn structure on the retained lands does not conform to the minimum required side yard setback of 15.0 metres. Staff further note that the proposed conditions, if approved, require a Tree Protection Plan and Landscape Plan prepared by qualified professionals were not included in the final decision.

**RELEVANT CONSULTATION**

- Corporate Services Department, Legal Services Division; and,
- Source Protection Planning.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The proposed Consent to Sever application and associated Minor Variance application do not have sufficient regard for the criteria of Section 51(24) of the *Planning Act* on the basis that the proposal negatively affects matters of provincial interest by further fragmenting agricultural lands, does not represent the orderly development of safe and healthy communities and presents a public health and safety concern as the proposed severed lands are of an insufficient size to support the septic system. Staff are also of the opinion that the proposal does not comply with the policies of the Rural Hamilton Official Plan related to lot creation in rural areas, and does not provide adequate services, as demonstrated through the policy analysis above.

Staff further note conditions that were requested by staff to be added to the approval of the application, in the case that the application was approved, were not included by the Committee of Adjustment.

Staff further note that the proposed conditions, if approved, require a Tree Protection Plan and Landscape Plan prepared by qualified professionals were not included in the final decision.

---

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 Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application FL/B-23:82 and Minor Variance Application FL/A-23:312, for Lands Located at 764 Valens Road, Flamborough (PED24034) (Ward 13) – Page 10 of 10**

---

Based on the foregoing, it is appropriate for the City to appeal the Committee of Adjustment's approval of Consent to Sever application FL/B-23:82 and Minor Variance application FL/A-23:312 to the Ontario Land Tribunal.

**ALTERNATIVES FOR CONSIDERATION**

Council may direct staff to withdraw the appeal letter, which was filed by staff against the decision of the Committee of Adjustment to the Ontario Land Tribunal. Provided that no further appeals are filed; this option would allow the Committee of Adjustment's decision to permit the Consent and Minor Variance applications.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24034 – Location Map

Appendix "B" to Report PED24034 – Staff Comments for FL/B-23:82 and FL/A-23:312

Appendix "C" to Report PED24034 – Severance Sketch

Appendix "D" to Report PED24034 – FL/B-23:82 and FL/A-23:312 Committee of Adjustment Decisions

Appendix "E" to Report PED24034 – FL/B-23:82 Consent Application

Appendix "F" to Report PED24034 – FL/A-23:312 Minor Variance Application

DB/sd

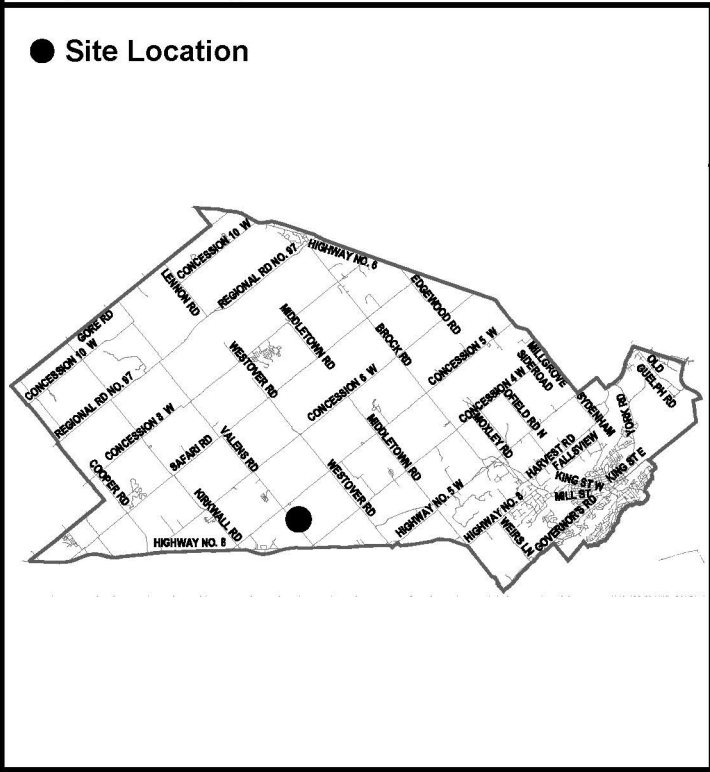
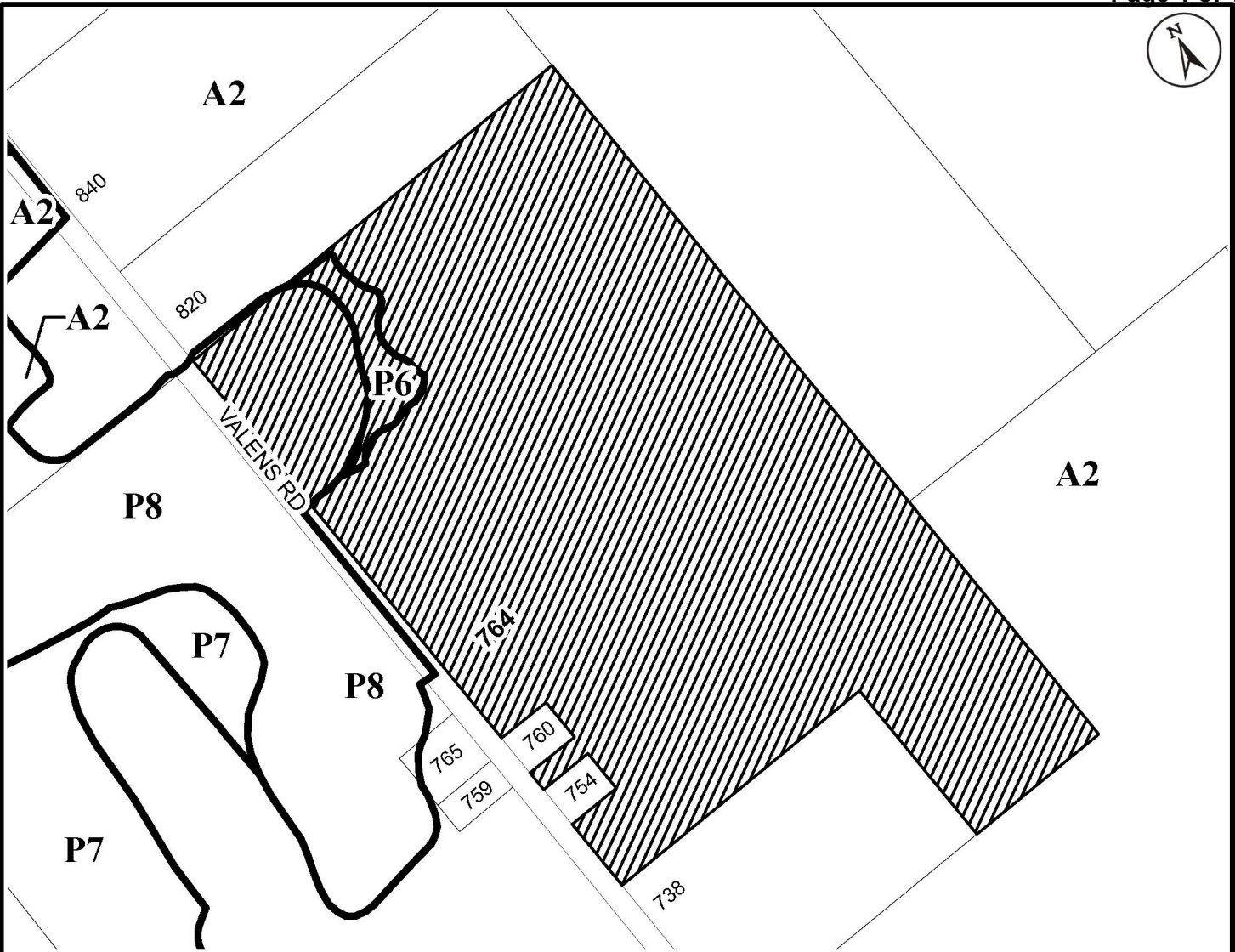
---

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.






Key Map - Ward 13

<h1>Location Map</h1>		 Hamilton
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: 764 Valens Rd Appeal Report		Date: February 15, 2024
Appendix "A"	Scale: N.T.S.	Planner/Technician: DB/AL

**Subject Property**

 764 Valens Road



Hamilton

HEARING DATE: January 18, 2024

FL/B-23:82 – 764 Valens Road, Flamborough

**Recommendation:**

Deny – Development Planning  
Approve – Transportation Planning

**Proposed Conditions:**

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. 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)
4. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plans Examination)
5. The owner shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
6. The owner shall submit survey evidence that the lands to be severed and/or the lands to be retained, including the location of any existing structure(s), conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
7. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – input either Plan Examination Section).



## Hamilton

HEARING DATE: January 18, 2024

8. The owner shall receive final and binding approval of Minor Variance application HM/A-23:312, to the satisfaction of the Director of Development Planning.
9. That the owner submits and receive approval of a Tree Protection Plan for the lands to be retained, including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Heritage and Urban Design.
10. That the owner submits and receives approval of a Landscape Plan, prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Heritage and Urban Design.

### **Proposed Notes:**

**“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 Citizenship and Multiculturalism (MCM) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”



Hamilton

**HEARING DATE: January 18, 2024**

**Development Planning:**

To permit the conveyance of a parcel of land containing an existing dwelling and to retain a parcel of land containing an existing farm.

	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>
<b>SEVERED LANDS:</b>	50.3 m±	50.3 m±	0.25 ha
<b>RETAINED LANDS:</b>	468.1 m±	410.2 m±	26.2 ha

**Greenbelt Plan**

The subject lands are identified as “Protected Countryside” under the Greenbelt Plan. The policies found in Section 4.6 Lot Creation, amongst others, are applicable. Specifically, 4.6.1 a) which states: “1. Lot creation is discouraged and may only be permitted for: a) Outside prime agricultural areas, including specialty crop areas, the range of uses permitted by the policies of this Plan”. Per Section 4.5.1 and 4.5.2, all existing uses are permitted and single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date of the Greenbelt Plan came into force.

**Rural Hamilton Official Plan**

The subject lands are designated “Rural” Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan. Policies found in Sections D.4.1, F.1.14.2.1, and F.1.14.2.3, amongst others, are applicable. The existing residential and agricultural uses are permitted. Policy F.1.14.2.1 a) states:

- a) *Severances that create a new lot for the following purposes shall be prohibited:*
  - i) *Residential uses except in accordance with 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a form consolidation; and, 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;*

Similarly, Policy F.1.14.2.1 c) states:

- c) *All proposed severances that create a new lot shall:*
  - i) *Comply with the policies of this Plan including a rural settlement area plan where one exists;*
  - ii) *Be compatible with and not hinder surrounding agricultural operations;*
  - iii) *Conform to the Zoning By-law;*



## Hamilton

HEARING DATE: January 18, 2024

- iv) *Only be permitted when both severed and retained lots have frontage on a public road; and,*
- v) *Meet the requirements of Section C.5.1, Private Water and Wastewater Services.*

Staff note that the applicant has indicated that the subject site inadvertently merged on title as a result of a previous Consent Application (being FL/B-05:231), which transferred a portion of the subject lands to lands immediately south (Part 1 on Reference Plan 62R-17432, transferred to 674 Valens Road). As a result, the dwelling (being Part 4 on the consent sketch and Part 4 of Reference Plan 62R-17114 and Part 1 on Reference Plan 62R-8514) merged with the adjacent farm parcel (Parts 1, 2 and 3 on the submitted consent sketch and Parts 1, 2 and 3 on Reference Plan 62R-17114).

Staff note that there is no Rural Hamilton Official Plan policy that speaks to inadvertently merging of lands within the rural area of the City of Hamilton. Due to the length of time passing since the merging of lands, staff have reviewed the Consent Application through the existing policy framework of the rural land use designation.

Based on the above policies, it is Staff's opinion that the proposed severance does not comply with the policies of the Rural Hamilton Official Plan as the proposed residential severance is not within a Rural Settlement Area nor is the proposed severance a surplus farm dwelling severance as a result of a farm consolidation. Similarly, the proposed lot size of 0.25 hectares does not meet the minimum lot area requirements of Section C.5.1, being a minimum lot size of 0.4 hectares (1 acre).

Per Schedule B – Natural Heritage System of the Rural Hamilton Official Plan, there are Core Areas (Rockton Northeast Woodlot) within the subject lands. Staff defer to Natural Heritage staff regarding Natural Heritage concerns.

### **Archaeology**

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) Along historic transportation routes; and,
- 3) In an area of sandy soil in areas of clay or stone.

Section 2.6.2 of the Provincial Policy Statement apply to the subject application. If this variance is approved, the proponent must be advised by the Committee of Adjustment as follows:

**“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

HEARING DATE: January 18, 2024

Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (MCM) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499)."

### **Cultural Heritage**

No comments.

### **Natural Heritage**

Natural Heritage staff note that the area of the proposed severance is regulated by the Hamilton Conservation Authority and permits may be required. The proposed severance is more than 30m from the edge of the adjacent woodlot and is not within the ESA area. There is concern that trees may be impacted as a result of the severance. A Tree Protection Plan and Landscape plan will be required as a condition. The 2024 fee is \$715.00.

### **Hamilton Zoning By-law No. 05-200**

The subject lands are zoned Rural (A2) Zone, Conservation/Hazard Land Rural (P6) Zone and Conservation/Hazard Land Rural (P8) Zone. The which permits the existing residential use and agricultural use. For an agricultural use, a minimum lot area of 40.4 hectares is required. For a single detached dwelling, a minimum lot width of 30 metres and a minimum lot area of 0.4 hectares is required. The proposed retained agriculture parcel does not meet the minimum lot area requirement and the proposed severed lot does meet the minimum lot width requirement of 30 metres, however satisfied the minimum lot area requirement of 0.4 hectares.

### **Recommendation:**

In conclusion, Staff are not supportive of the proposed severance as the proposal does not meet the policies of the Rural Hamilton Official Plan. Staff recommends that the applications be **denied**.

### **CONDITIONS: (If Approved)**

1. The owner shall receive final and binding approval of Minor Variance application HM/A-23:312, to the satisfaction of the Director of Development Planning.
2. That the owner submits and receive approval of a Tree Protection Plan for the lands to be retained, including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Heritage and Urban Design.



**HEARING DATE: January 18, 2024**



Hamilton

3. That the owner submits and receives approval of a Landscape Plan, prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Heritage and Urban Design.

**NOTE: Staff note that the subject property is within the regulation area of the Hamilton Conservation Authority and approvals by the HCA may be required.**

**Zoning:**

Recommendation:	
Proposed Conditions:	<ol style="list-style-type: none"> <li>1.The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plans Examination)</li> <li>2.The owner shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).</li> <li>3.The owner shall submit survey evidence that the lands to be severed and/or the lands to be retained, including the location of any existing structure(s), conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).</li> <li>4.The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – input either Plan Examination Section)</li> </ol>
Comments:	<ol style="list-style-type: none"> <li>1. This application shall be heard in conjunction with Consent application FL/A-23:312.</li> <li>2. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.</li> <li>3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</li> </ol>



Hamilton

**HEARING DATE: January 18, 2024**

	<p>4. Legally established rights of ways and access easements shall be properly registered on title as per reference to Sun-Canadian Pipeline Easement indicated on application form.</p> <p>5. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with The Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be conveyed/retained or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.</p>
Notes:	

**Development Engineering:**

Recommendation:	
Proposed Conditions:	
Comments:	<p>Based on the proposed Consent Application, there are no buildings or structures proposed and the property lies outside of the Urban Boundary. The main purpose of the application is for land conveyance purposes. Provided there are no structures / buildings proposed or foundation alterations and the existing drainage patterns are maintained, then Development Engineering has no comments.</p>
Notes:	

**Transportation Planning:**

Recommendation:	Approve
Proposed Conditions:	
Comments:	<p>The existing ~20 metre Right-of-Way on Valens Road is sufficient to meet the 20 metre requirement for local roads under the City of Hamilton Official Plan.</p>
Notes:	

**Source Protection Planning:**

Source Protection Planning understands the applicant is seeking to sever the existing lot at 764 Valens Road, with the severed land being 0.25 ha to be used for residential purposes, and the retained land being 26.2 ha to be used for agricultural purposes. We also understand that the application does not include the construction of any additional new dwellings or increase the size of the existing dwelling on each proposed parcel. Our comments are as follows:

HEARING DATE: January 18, 2024



Hamilton

The proposed severed lot size of 0.25 ha is considered insufficient, as our desktop review indicates pollution from the severed lot's septic system would not meet policies within Rural Hamilton Official Plan C.5.1 and put neighboring properties at increased water quality / health risk.

Based on the site-specific surficial geology and typical wastewater flows from a 3-bedroom dwelling, the minimum sustainable lot size would be 0.55 ha. It is the responsibility of the applicant to retain a qualified professional to confirm the minimum sustainable lot size.

Without an amendment to the severed lot area, Source Protection Planning cannot support the application as proposed. If the application is tabled and an increase of severed lot area is of at least 0.55 ha in a future submission, we would be able to support the application with the condition of a Scoped Hydrogeological Report to the satisfaction of Director, Hamilton Water completed by a qualified professional (P.Eng., P.Geo.). This Scoped Hydrogeological Report would focus on the sustainability of the applicant's private water supply. It should consider all the uses proposed on-site and will need to be completed in accordance with the City of Hamilton Guideline for Hydrogeological Studies and Technical Standards for Private Servicing (link: <https://www.hamilton.ca/sites/default/files/2022-09/pedpolicies-guidelines-hydrogeologicalstudies.pdf>).

Scope of work would include but not necessarily limited to:

1. A water supply assessment should be conducted by a qualified professional in accordance with the City of Hamilton's Hydrogeological Guideline. It should include expected water use / flows and provide evidence that onsite water supply well will meet the capacity of the proposed use through the completion of a minimum of 6-hour pumping test.
2. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record cannot be located or if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvement to the condition of the well suggested by the water well contractor (i.e., in order to comply with Regulation 903) shall be implemented and associated documentation shall be forward to Source Protection Planning for review. Find licensed water well contractor here: <https://www.ontario.ca/page/find-licenced-well-contractors>
3. The water well contractor or other qualified professional (P.Eng., P.Geo.) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, metals, E. coli, total coliforms. If a new well is to be drilled to support the development, the proponent shall test water quality parameters stated in Tables 1 through 4 as found in the document "Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines" (2006). Gross Alpha and Gross Beta screening can be done for radiological activity. If the screening yields a negative result, there is no need to test for any of the



Hamilton

**HEARING DATE: January 18, 2024**

parameters under Table 3.

Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>

4. Completion of a water well survey within a 500m radius of the site to confirm the existing groundwater use in the area.

5. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the location conforms with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall be delineated to conform to Rural Hamilton Official Plan requirements.

6. As per Ontario Regulation 903, if any wells onsite are to be abandoned, they should be decommissioned by a licensed water well contractor.

If the applicant disagrees with the City’s assessment, they have the option to conduct a Full Hydrogeological Report, following the City’s Guideline for Hydrogeological Studies and Technical Standards for Private Services.

The applicant should be aware that a Full Hydrogeological Report does not necessarily promote favorable outcome and may simply confirm the City’s findings.

**Legislative Approvals:**

Recommendation:	
Proposed Conditions:	
Comments:	Lands to be retained will be assigned the address of 772 Valens Road, Flamborough. Lands to be severed will retain the address of 764 Valens Road, Flamborough.
Notes:	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.



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

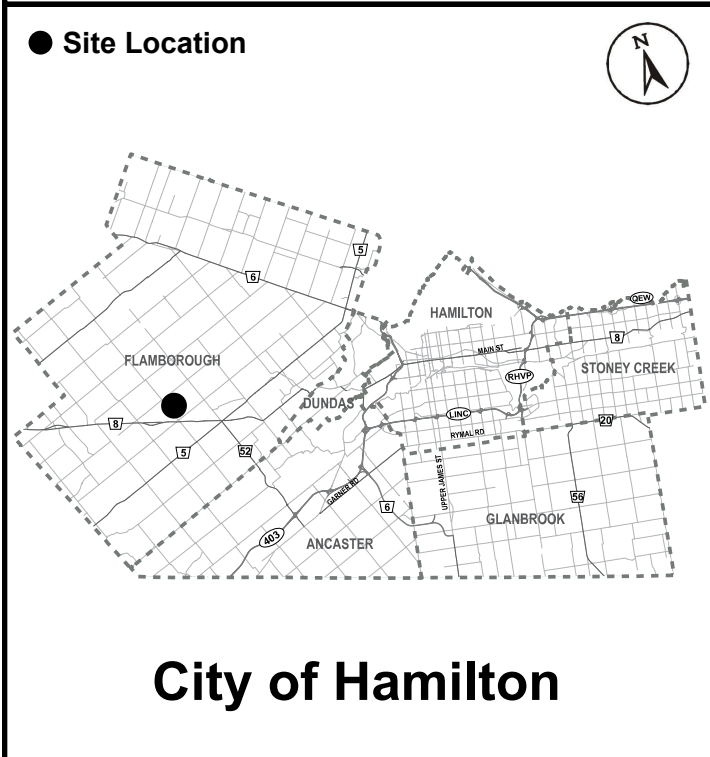
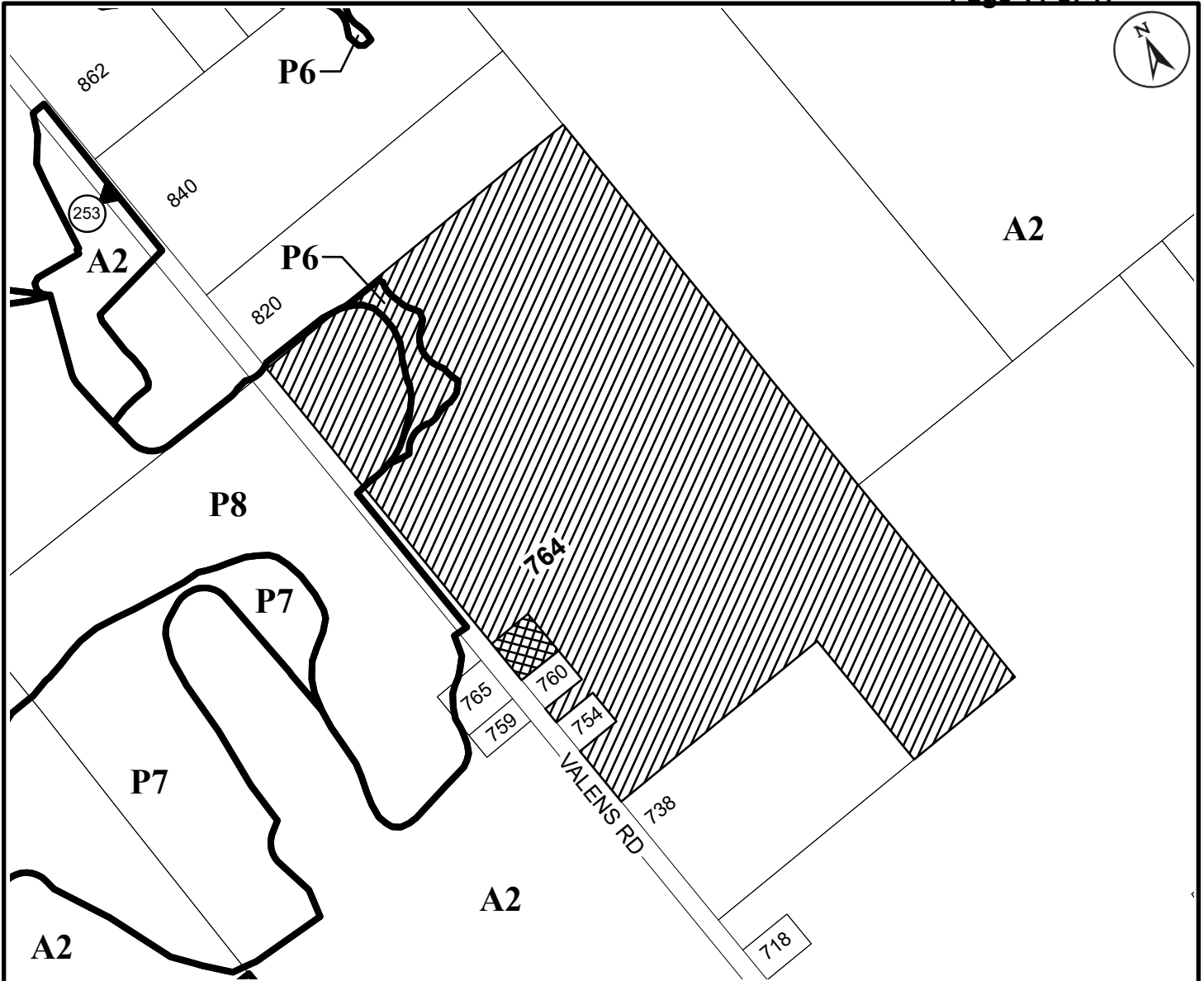
Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**To:** Jamila Sheffield, Secretary-Treasurer, Committee of Adjustment  
**From:** Sam Brush, Urban Forest Health Tech – Forestry and Horticulture  
**Email:** [Sam.brush@hamilton.ca](mailto:Sam.brush@hamilton.ca)  
**File Number:** FL/B-23:82  
**Address:** 764 Valens Road, Flamborough  
**Subject:** Committee of Adjustment File Comments – Thursday January 18, 2024

---



Recommendation	Approve
Proposed Conditions:	
Comments:	There are municipal tree assets on site although it is determined that no impacts are anticipated through this application. No public tree permit is required.  No Landscape plan required.
Notes:	Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to Forestry. Email <a href="mailto:urbanforest@hamilton.ca">urbanforest@hamilton.ca</a> for questions or public tree permit application.



## Committee of Adjustment

### Subject Property

764 Valens Road, Flamborough (Ward 13)

-  Lands to be Retained
-  Lands to be Severed

File Name/Number:  
FL/B-23:82

Date:  
January 9, 2024

Technician:  
AL

Map Not To Scale

Appendix "A"



Hamilton



HEARING DATE: January 18, 2024



Hamilton

FL/A-23:312 – 764 Valens Road, Flamborough

**Recommendation:**

Deny

**Proposed Conditions:**

N/A

**Proposed Notes:**

**NOTE:** Staff note that the subject property is within the regulation area of the Hamilton Conservation Authority and approvals by the HCA may be required.



Hamilton

HEARING DATE: January 18, 2024

### **Development Planning:**

To create two separate lots in accordance with Consent Application FL/B-23:82. The severed lands contain a two story, single detached dwelling and barn structure, to be retained.

### **Greenbelt Plan**

The subject lands are identified as "Protected Countryside" under the Greenbelt Plan. The policies found in Section 4.6 Lot Creation, amongst others, are applicable. Specifically, 4.6.1 a) which states: "1. Lot creation is discouraged and may only be permitted for: a) Outside prime agricultural areas, including specialty crop areas, the range of uses permitted by the policies of this Plan". Per Section 4.5.1 and 4.5.2, all existing used are permitted and single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date of the Greenbelt Plan came into force.

### **Rural Hamilton Official Plan**

The subject lands are designated "Rural" Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan. Policies found in Sections C.5.1, D.4.1, amongst others, are applicable. The proposed residential use is permitted. Staff note that the proposed severed lot does not meet the minimum lot are requirement of 0.4 hectares (1 acre) found in Section C.5.1, Private Water and Wastewater Services.

Per Schedule B – Natural Heritage System of the Rural Hamilton Official Plan, there are Core Areas (Rockton Northeast Woodlot) within the subject lands. Staff defer to Natural Heritage staff regarding Natural Heritage concerns.

### **Archaeology**

See comments for FL/B-23:82.

### **Cultural Heritage**

No comments.

### **Natural Heritage**

See comments for FL/B-23:82.

### **Former Hamilton Zoning By-law No. 6593**

The subject lands are zoned Rural (A2) Zone, which permits the existing single detached dwelling and agricultural use.

HEARING DATE: January 18, 2024



Hamilton

## Variances

### Lands to be Retained

1. A minimum lot area of 26 hectares shall be permitted whereas the By-law requires a minimum lot area of 40.4 hectares.
2. A minimum side yard setback of 13.0 metres shall be permitted whereas the By-law requires a minimum side yard setback of 15.0 metres.

The intent of these provisions is to ensure agricultural lots are of a sufficient size to be economically viable for agricultural operations and to ensure there is sufficient separation from barn or farm structures and neighbouring properties to avoid obnoxious or nuisance impacts.

Regarding Variance 1, Staff note that the existing agricultural operation operates on an existing undersized lot, being significantly below the minimum required lot size of 40.4 hectares. However, as the proposed severance would result in a decrease in lot area of 0.25 hectares and an increase in non-conformity. Staff are of the opinion the intent of the Zoning By-law is not maintained and the variance is not minor in nature.

Regarding Variance 2, Staff note that information regarding the functionality of the barn structure in terms of livestock has not been provided nor have MDS calculations been provided. As Staff are unable to confirm if the barn structure could potentially have impacts on neighbouring properties in terms of obnoxious odours, staff do not consider this variance to be minor in nature.

### Lands to be Severed

3. A minimum lot area of 0.24 hectares shall be permitted whereas the By-law requires a minimum lot area of 0.4 hectares.

The intent of this provision is to ensure that residential lots in Rural Areas are of a size large enough to accommodate adequate private water and wastewater servicing, particularly concerning nitrate impacts and on-site and off-site water quality impacts. Staff note that the proposed severed lot is significantly undersized compared to the required minimum lot area of 0.4 hectares in both the Zoning By-law and Section C.5.1 of the Rural Hamilton Official Plan. Therefore, Staff are of the opinion that the requested variance does not maintain the general intent of the Rural Hamilton Official Plan or Zoning By-law.

Staff are of the opinion that these variances do not meet the four tests of a minor variance. Based on the foregoing, staff recommend **denial**.



Hamilton

**HEARING DATE: January 18, 2024**

**Recommendation:**

Staff are of the opinion the requested variances do not maintain the general intent of the Rural Hamilton Official Plan and Hamilton Zoning By-law No. 05-200 and are not minor in nature. In conclusion, Staff recommends that the application be **denied**.

**CONDITIONS: (If Approved)**

**NOTE: Staff note that the subject property is within the regulation area of the Hamilton Conservation Authority and approvals by the HCA may be required.**

**Zoning:**

Recommendation:	
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"> <li>1. This application shall be heard in conjunction with Consent application FL/B-23:82</li> <li>2. Variance #1 pertaining to the "Lot to be Conveyed (Single Detached Dwelling; Part 4 as indicated on Site Sketch)" should be altered to replace the wording "Are" with "Area" so that the variance reads as follows:                       "A minimum Lot Area of 0.24 hectares shall be provided instead of the minimum required Lot Area of 0.4 hectares."</li> <li>3. Be advised, the Site Survey provided does not indicate property areas for the proposed lots. The variances have been provided exactly as requested by the applicant. Should lot areas not be as requested, additional variances may be required for lot areas the do not meet minimum requirements.</li> <li>4. Please be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation at 905-525-2181 for further information.</li> </ol>
Notes:	

**Development Engineering:**

Recommendation:	
Proposed Conditions:	
Comments:	No comments.
Notes:	



Hamilton

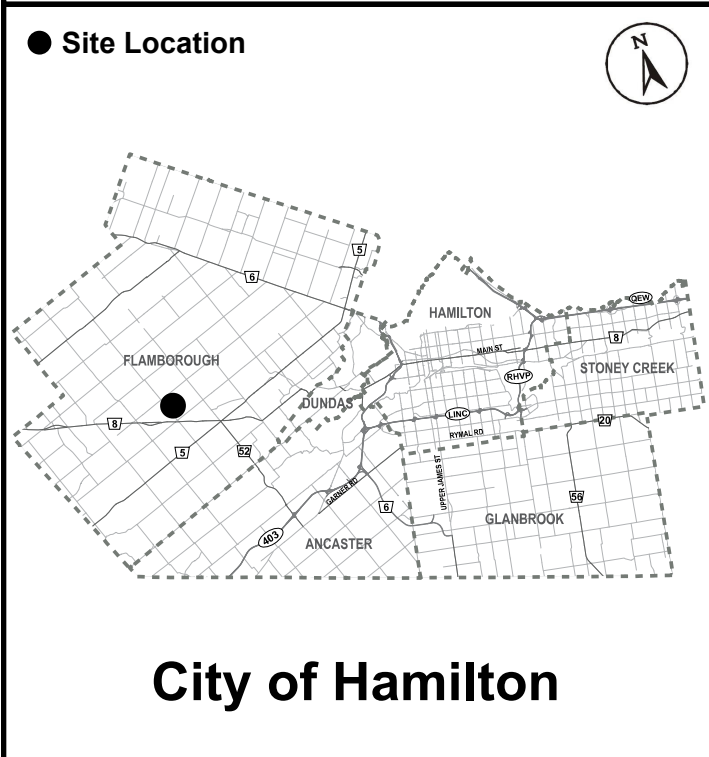
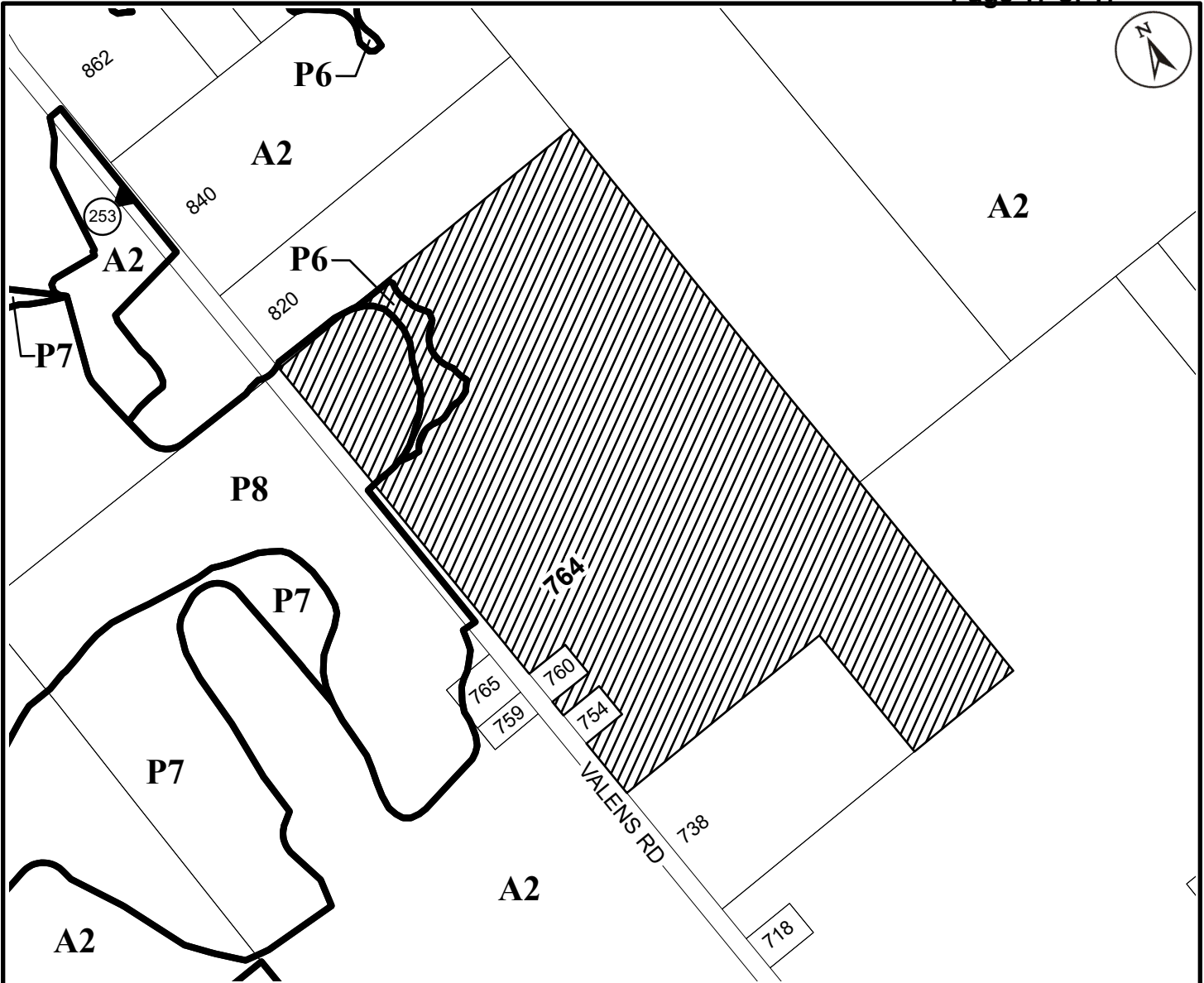
HEARING DATE: January 18, 2024

**Transportation Planning:**

Recommendation:	
Proposed Conditions:	
Comments:	No comments.
Notes:	

**Legislative Approvals:**

Recommendation:	
Proposed Conditions:	
Comments:	No comments.
Notes:	



## Committee of Adjustment

### Subject Property



764 Valens Road, Flamborough  
 (Ward 13)

### File Name/Number:

FL/A-23:312

### Date:

January 9, 2024

### Technician:

AL

Map Not To Scale

Appendix "A"

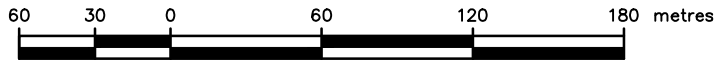


Hamilton

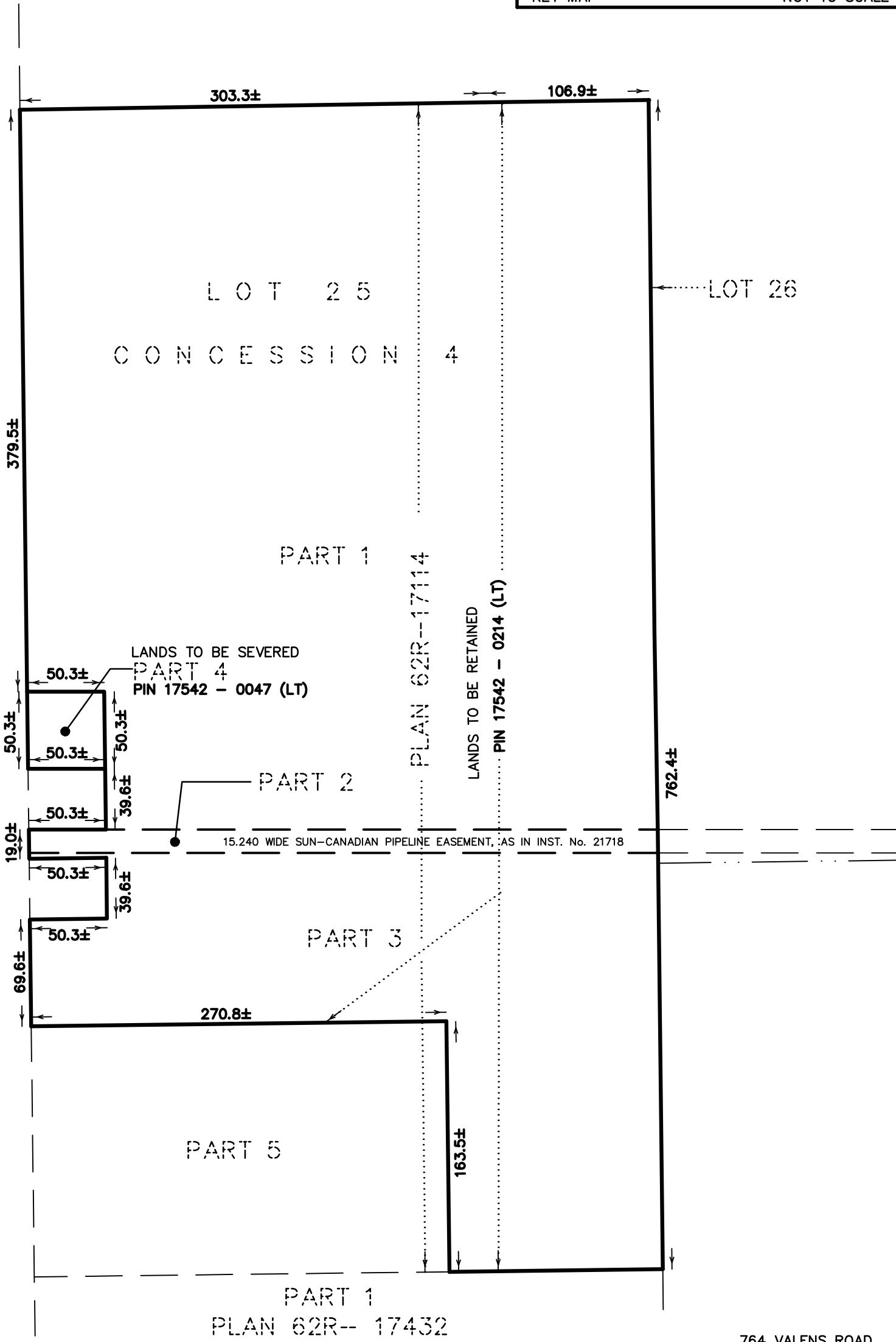
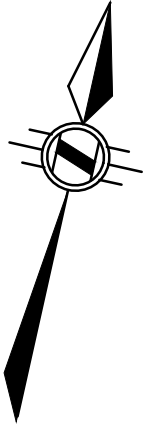
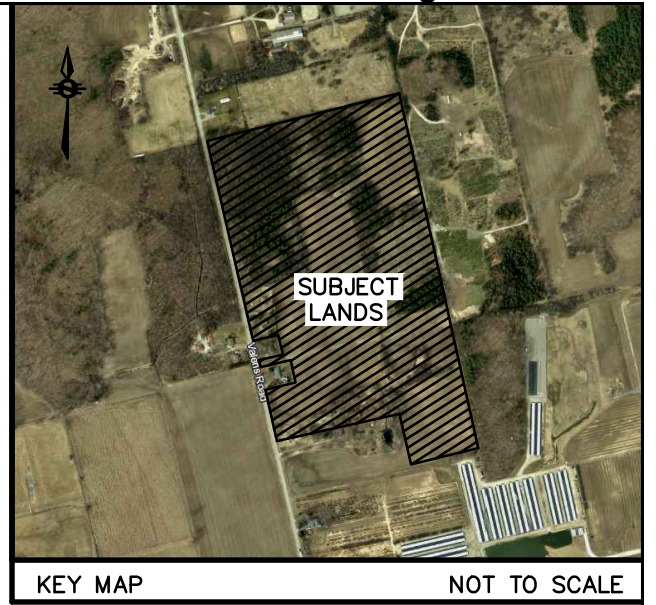


**SKETCH FOR SEVERANCE APPLICATION**  
OF PART OF  
**LOT 25**  
**CONCESSION 4**  
GEOGRAPHIC  
**TOWNSHIP OF BEVERLY**  
IN THE  
**CITY OF HAMILTON**

SCALE 1:3000 METRIC



**R.A. McLAREN, O.L.S. - 2023**



**CAUTION:**

- A) THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSE INDICATED IN THE TITLE BLOCK.
- B) THIS PLAN IS PROTECTED BY COPYRIGHT ©

**NOTE:**

DISTANCES SHOWN ON THIS PLAN WERE DERIVED FROM PLAN 62R-17114.

**METRIC NOTE:**

DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

© R.A. McLAREN, O.L.S. - 2023. NO PERSON MAY COPY REPRODUCE, DISTRIBUTE OR ALTER THIS PLAN IN WHOLE OR IN PART WITHOUT THE WRITTEN PERMISSION OF R.A. McLAREN, O.L.S.



**A.T. McLaren Limited**  
LEGAL AND ENGINEERING SURVEYS

69 JOHN STREET SOUTH, SUITE 230  
HAMILTON, ONTARIO, L8N 2B9  
PHONE (905) 527-8559 FAX (905) 527-0032

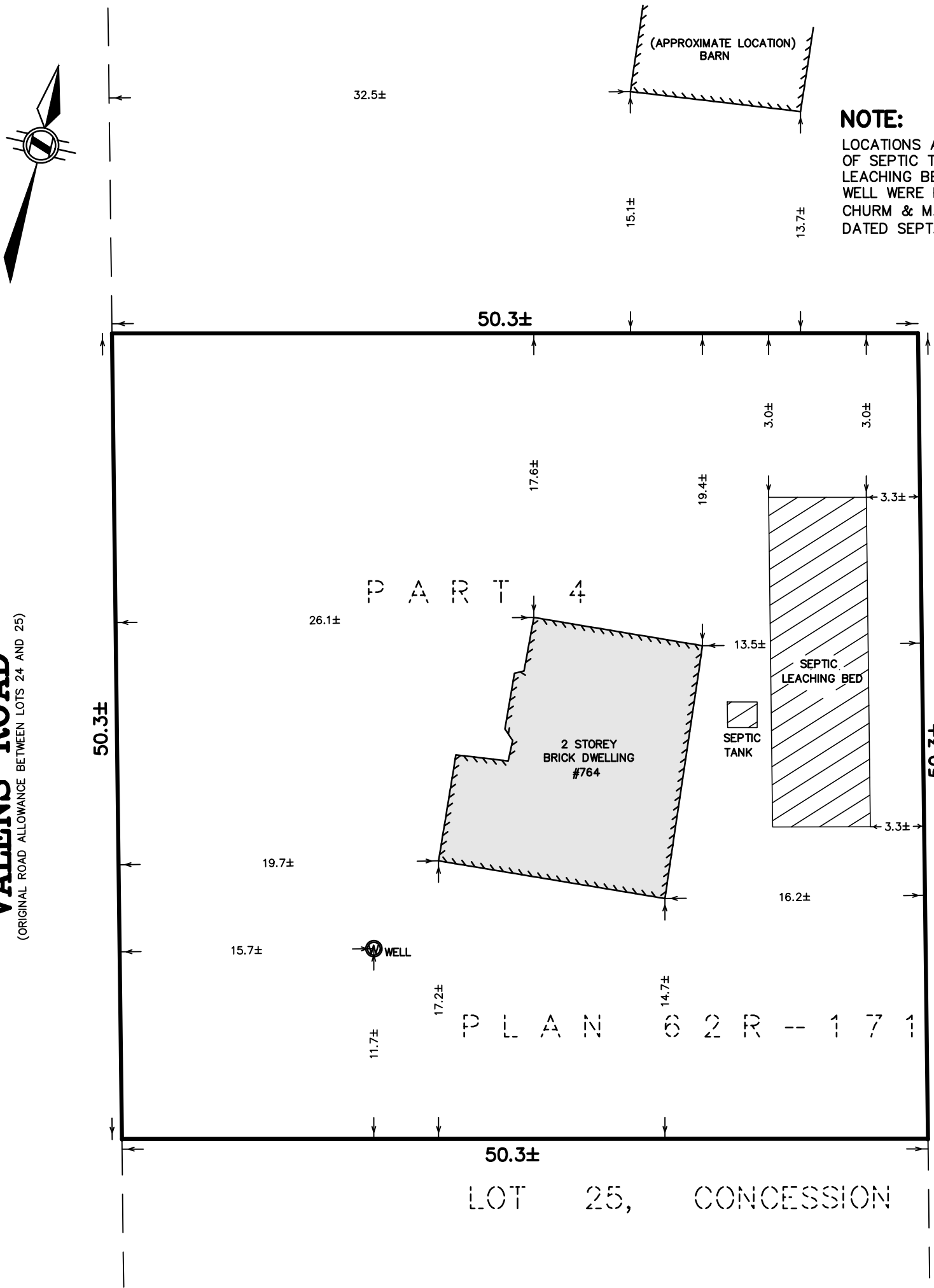
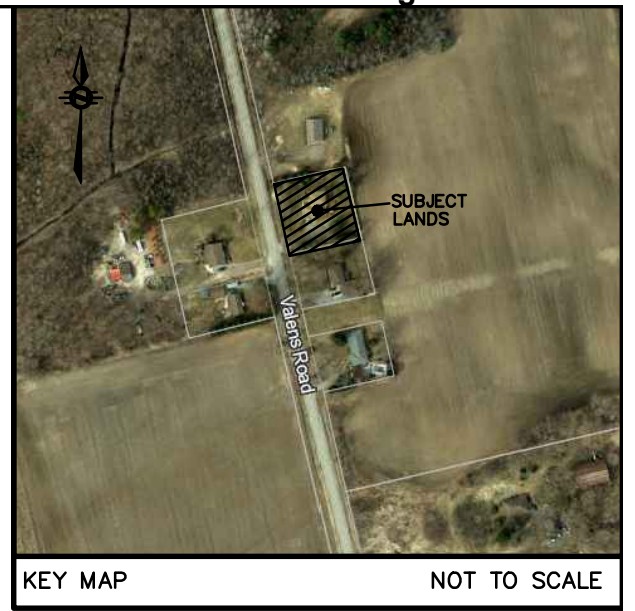
Drawn MN	Checked RAM	Crew Chief -	Scale 1:3000	Dwg.No. 37486-SK
-------------	----------------	-----------------	-----------------	------------------

**SKETCH FOR SEVERANCE APPLICATION**  
 OF PART OF  
**LOT 25**  
**CONCESSION 4**  
 GEOGRAPHIC  
**TOWNSHIP OF BEVERLY**  
 IN THE  
**CITY OF HAMILTON**

SCALE 1:300 METRIC



**R.A. McLAREN, O.L.S. - 2023**



**CAUTION:**

- A) THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSE INDICATED IN THE TITLE BLOCK.
- B) THIS PLAN IS PROTECTED BY COPYRIGHT ©

**NOTE:**

DISTANCES SHOWN ON THIS PLAN WERE DERIVED FROM PLAN 62R-17114. LOCATIONS OF STRUCTURES WERE APPROXIMATE.

**METRIC NOTE:**

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

764 VALENS ROAD

© R.A. McLAREN, O.L.S. - 2023. NO PERSON MAY COPY REPRODUCE, DISTRIBUTE OR ALTER THIS PLAN IN WHOLE OR IN PART WITHOUT THE WRITTEN PERMISSION OF R.A. McLAREN, O.L.S.

**A.T. McLaren Limited**  
 LEGAL AND ENGINEERING SURVEYS

69 JOHN STREET SOUTH, SUITE 230  
 HAMILTON, ONTARIO, L8N 2B9  
 PHONE (905) 527-8559 FAX (905) 527-0032

Drawn MN	Checked RAM	Crew Chief -	Scale 1:300	Dwg.No. 37486-SK2
-------------	----------------	-----------------	----------------	-------------------

**NOTICE OF DECISION**  
**Consent/Land Severance**

<b>APPLICATION NO.:</b>	FL/B-23:82	<b>SUBJECT PROPERTY:</b>	764 Valens Road, Flamborough
-------------------------	------------	--------------------------	------------------------------

**APPLICANTS:**      Owner: Theresa Slemko & William Slemko  
                              Agent: Arcadis c/o Mike Crough

**PURPOSE & EFFECT:**      To permit the conveyance of a parcel of land containing an existing dwelling and to retain a parcel of land containing an existing farm.

	Frontage	Depth	Area
<b>SEVERED LANDS:</b>	50.3 m <sup>±</sup>	50.3 m <sup>±</sup>	0.25 ha <sup>±</sup>
<b>RETAINED LANDS:</b>	468.1 m <sup>±</sup>	410.2 m <sup>±</sup>	26.2 ha <sup>±</sup>

Associated Planning Act File(s): FL/A-23:312

**THE DECISION OF THE COMMITTEE IS:**

That the said application, as set out above, Approved as Amended, for the following reasons:

1.      The proposal does not conflict with the intent of the Urban/Rural Hamilton Official Plan.
2.      The proposal does not contravene Zoning By-law requirements.
3.      The Committee considers the proposal to be in keeping with development in the area.
4.      The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
5.      The submissions made regarding this matter affected the decision by supporting the granting of the application, with amendments.

DATED AT HAMILTON, January 18, 2024.

---

D. Smith (Chairman)

---

B. Charters

M. Dudzic

---

M. Switzer

T. Lofchik

---

N. Mleczko

D. Serwatuk

The date of the giving of this Notice of Decision is **January 25, 2024**. Above noted conditions **MUST** be fulfilled within **TWO (2) YEARS** of the date of this Notice of Decision (January 25, 2026) or the application shall be deemed to be REFUSED (Planning Act, 53(41)).

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **February 14, 2024** A Notice of Appeal must be filed with the Secretary-treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information Consents/Severances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. 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.

**NOTICE OF DECISION**  
**Minor Variance**

<b>APPLICATION NO.:</b>	FL/A-23:312	<b>SUBJECT PROPERTY:</b>	764 Valens Road, Flamborough
<b>ZONE:</b>	"A2" (Rural)	<b>ZONING BY-LAW:</b>	Zoning By-law City of Hamilton 05-200, as Amended 15-173

**APPLICANTS:** Owner: Theresa Slemko & William Slemko  
 Agent: Arcadis c/o Mike Crough

The following variances are **GRANTED**:

Lot to be Retained (Farm Lot; Part 1, 2 and 3 as indicated on Site Sketch)

1. A minimum Lot Area of 26 hectares shall be provided instead of the minimum required Lot Area of 40.4 hectares;
2. A minimum Side Yard Setback of 13.0 metres shall be provided instead of the minimum required Side Yard Setback of 15.0 metres.

Lot to be Conveyed (Single Detached Dwelling; Part 4 as indicated on Site Sketch)

1. A minimum Lot Area of 0.24 hectares shall be provided instead of the minimum required Lot Area of 0.4 hectares.

**Notes:**

- i. This application shall be heard in conjunction with Consent application FL/B-23:82
- ii. Be advised, the plans provided do not include a Survey and the Site Sketch provided cannot be determined for accuracy regarding lot area. Variances have been provide exactly as written by the applicant. Please note that due to insufficient details provided regarding the area of the proposed lots a complete review could not be conducted for Zoning By-law Compliance.

**THE DECISION OF THE COMMITTEE IS:**

That the variances, as set out above, are **GRANTED** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.

2. The relief granted is desirable for the appropriate development of the land and building and is consistent with the general intent and purpose of the By-laws and the Official Plans as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

DATED AT HAMILTON, January 18, 2024.

---

D. Smith (Chairman)

---

B. Charters

M. Dudzic

---

M. Switzer

T. Lofchik

---

N. Mleczko

D. Serwatak

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **February 7, 2024** A Notice of Appeal must be filed with the Secretary-Treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information – Minor Variances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. 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.



**Committee of Adjustment**  
 City Hall, 5<sup>th</sup> Floor,  
 71 Main St. W.,  
 Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221  
 Email: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)



**APPLICATION FOR CONSENT TO SEVER LAND  
 and VALIDATION OF TITLE  
 UNDER SECTION 53 & 57 OF THE PLANNING ACT**

Please see additional information regarding how to submit an application, requirements for the required sketch and general information in the Submission Requirements and Information.

**1. APPLICANT INFORMATION**

	<b>NAME</b>	
<b>Purchaser*</b>	Stephen Churm	
<b>Registered Owners(s)</b>	Theresa Slemko and William	
<b>Applicant(s)**</b>	Same as below	
<b>Agent or Solicitor</b>	Arcadis c/o Mike Crough	

\*Purchaser must provide a copy of the portion of the agreement of purchase and sale that authorizes the purchaser to make the application in respect of the land that is the subject of the application.

\*\* Owner's authorisation required if the applicant is not the owner or purchaser.

1.2 All correspondence should be sent to  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.3 Sign should be sent to  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.4 Request for digital copy of sign  Yes\*  No

If YES, provide email address where sign is to be sent [REDACTED]

1.5 All correspondence may be sent by email  Yes\*  No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.

**2. LOCATION OF SUBJECT LAND**

2.1 Complete the applicable sections:

Municipal Address	764 Valens Road		
Assessment Roll Number			
Former Municipality	Flamborough		
Lot	PT LT 25	Concession	CON 4 BEVERLY
Registered Plan Number		Lot(s)	
Reference Plan Number (s)	62R17114/62R8514	Part(s)	PARTS 1, 2, 3, & 4

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes  No

If YES, describe the easement or covenant and its effect:

15.240 WIDE SUN-CANADIAN PIPELINE EASEMENT, AS IN INST. No. 21718

**3 PURPOSE OF THE APPLICATION**

3.1 Type and purpose of proposed transaction: (check appropriate box)

- |   |  |
|---|--|
| <input type="checkbox"/> creation of a new lot(s)<br><input type="checkbox"/> addition to a lot<br><input type="checkbox"/> an easement<br><input type="checkbox"/> validation of title (must also complete section 8)<br><input type="checkbox"/> cancellation (must also complete section 9)<br><input type="checkbox"/> creation of a new non-farm parcel (must also complete section 10)<br>( i.e. a lot containing a surplus farm dwelling<br>resulting from a farm consolidation) | <input type="checkbox"/> concurrent new lot(s)<br><input type="checkbox"/> a lease<br><input checked="" type="checkbox"/> a correction of title<br><input type="checkbox"/> a charge |
|---|--|

3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

Stephen Churm

3.3 If a lot addition, identify the lands to which the parcel will be added:

\_\_\_\_\_

3.4 Certificate Request for Retained Lands:  Yes\*

\* If yes, a statement from an Ontario solicitor in good standing that there is no land abutting the subject land that is owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Act. (O. Reg. 786/21)

**4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION**

4.1 Description of subject land:

All dimensions to be provided in metric (m, m<sup>2</sup> or ha), attach additional sheets as necessary.

	Retained (remainder)	Parcel 1	Parcel 2	Parcel 3*	Parcel 4*
--	-------------------------	----------	----------	-----------	-----------

Identified on Sketch as:	Lands to be Ret	Lands to be Sev			
Type of Transfer					
Frontage	468.1 m +/-	50.3 m +/-			
Depth	410.2 m +/-	50.3 m +/-			
Area	26.2 ha +/-	0.25 ha +/-			
Existing Use	Farm	Residential			
Proposed Use	As existing	As existing			
Existing Buildings/ Structures	Barn structure	Two-storey single detached			
Proposed Buildings/ Structures	N/A	N/A			
Buildings/ Structures to be Removed	N/A	N/A			

\* Additional fees apply.

#### 4.2 Subject Land Servicing

a) Type of access: (check appropriate box)

- |   |  |
|---|--|
| <input type="checkbox"/> provincial highway                             | <input type="checkbox"/> right of way      |
| <input type="checkbox"/> municipal road, seasonally maintained          | <input type="checkbox"/> other public road |
| <input checked="" type="checkbox"/> municipal road, maintained all year |  |

b) Type of water supply proposed: (check appropriate box)

- |  |   |
|--|---|
| <input type="checkbox"/> publicly owned and operated piped water system          | <input type="checkbox"/> lake or other water body |
| <input checked="" type="checkbox"/> privately owned and operated individual well | <input type="checkbox"/> other means (specify)    |

c) Type of sewage disposal proposed: (check appropriate box)

- publicly owned and operated sanitary sewage system  
 privately owned and operated individual septic system  
 other means (specify) \_\_\_\_\_

#### 4.3 Other Services: (check if the service is available)

- electricity       telephone       school bussing       garbage collection

### 5 CURRENT LAND USE

#### 5.1 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): Rural

Rural Settlement Area: \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable) \_\_\_\_\_

Please provide an explanation of how the application conforms with a City of Hamilton Official Plan.

Please refer to the Cover Letter prepared by Arcadis.

- 5.2 Is the subject land currently the subject of a proposed official plan amendment that has been submitted for approval?  
 Yes       No       Unknown

If YES, and known, provide the appropriate file number and status of the application.

- 5.3 What is the existing zoning of the subject land? Rural (A2) and Conservation/Hazard Land Ru

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number?

- 5.4 Is the subject land the subject of any other application for a Minister's zoning order, zoning by-law amendment, minor variance, consent or approval of a plan of subdivision?  
 Yes       No       Unknown

If YES, and known, provide the appropriate file number and status of the application.

Concurrent minor variance application

- 5.5 Are any of the following uses or features on the subject land or within 500 metres of the subject land, unless otherwise specified. Please check the appropriate boxes, if any apply.

Use or Feature	On the Subject Land	Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance)
<b>An agricultural operation, including livestock facility or stockyard</b> * Submit Minimum Distance Separation Formulae (MDS) if applicable	<input type="checkbox"/>	
<b>A land fill</b>	<input type="checkbox"/>	
<b>A sewage treatment plant or waste stabilization plant</b>	<input type="checkbox"/>	
<b>A provincially significant wetland</b>	<input checked="" type="checkbox"/>	
<b>A provincially significant wetland within 120 metres</b>	<input checked="" type="checkbox"/>	
<b>A flood plain</b>	<input checked="" type="checkbox"/>	
<b>An industrial or commercial use, and specify the use(s)</b>	<input type="checkbox"/>	
<b>An active railway line</b>	<input type="checkbox"/>	
<b>A municipal or federal airport</b>	<input type="checkbox"/>	

## 6 HISTORY OF THE SUBJECT LAND

- 6.1 Has the subject land ever been the subject of an application for approval of a plan of subdivision or a consent under sections 51 or 53 of the *Planning Act*?  
 Yes       No       Unknown

If YES, and known, provide the appropriate application file number and the decision made on the application.

FL/B-05:231

---

- 6.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.
- 

- 6.3 Has any land been severed or subdivided from the parcel originally acquired by the owner of the subject land?  
 Yes       No

If YES, and if known, provide for each parcel severed, the date of transfer, the name of the transferee and the land use.

---

- 6.4 How long has the applicant owned the subject land?

36 years

---

- 6.5 Does the applicant own any other land in the City?       Yes       No  
If YES, describe the lands below or attach a separate page.
- 

## 7 PROVINCIAL POLICY

- 7.1 Is this application consistent with the Policy Statements issued under Section 3 of the *Planning Act*?

Yes       No      (Provide explanation)

Please refer to the Cover Letter prepared by Arcadis.

---

- 7.2 Is this application consistent with the Provincial Policy Statement (PPS)?

Yes       No      (Provide explanation)

Please refer to the Cover Letter prepared by Arcadis.

---

- 7.3 Does this application conform to the Growth Plan for the Greater Golden Horseshoe?

Yes       No      (Provide explanation)

Please refer to the Cover Letter prepared by Arcadis.

---

- 7.4 Are the subject lands subject to the Niagara Escarpment Plan?

Yes       No      (Provide explanation)

---

7.5 Are the subject lands subject to the Parkway Belt West Plan?

Yes  No (Provide explanation)

7.6 Are the subject lands subject to the Greenbelt Plan?

Yes  No (Provide explanation)

Please refer to the Cover Letter prepared by Arcadis.

7.7 Are the subject lands within an area of land designated under any other provincial plan or plans?

Yes  No (Provide explanation)

## 8 ADDITIONAL INFORMATION - VALIDATION

8.1 Did the previous owner retain any interest in the subject land?

Yes  No (Provide explanation)

8.2 Does the current owner have any interest in any abutting land?

Yes  No (Provide explanation and details on plan)

8.3 Why do you consider your title may require validation? (attach additional sheets as necessary)

## 9 ADDITIONAL INFORMATION - CANCELLATION

9.1 Did the previous owner retain any interest in the subject land?

Yes  No (Provide explanation)

9.2 Does the current owner have any interest in any abutting land?

Yes  No (Provide explanation and details on plan)

9.3 Why do you require cancellation of a previous consent? (attach additional sheets as necessary)



**10 ADDITIONAL INFORMATION - FARM CONSOLIDATION**

10.1 Purpose of the Application (Farm Consolidation)

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate if the consolidation is for:

- Surplus Farm Dwelling Severance from an Abutting Farm Consolidation
- Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation

10.2 Location of farm consolidation property:

Municipal Address			
Assessment Roll Number			
Former Municipality			
Lot		Concession	
Registered Plan Number		Lot(s)	
Reference Plan Number (s)		Part(s)	

10.3

Rural Hamilton Official Plan Designation(s)  
 If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate the existing land use designation of the abutting or non-abutting farm consolidation property.

10.4

Description of farm consolidation property:

Frontage (m):	Area (m <sup>2</sup> or ha):
---------------	------------------------------

Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

10.5

Description of abutting consolidated farm (excluding lands intended to be severed for the surplus dwelling)

Frontage (m):	Area (m <sup>2</sup> or ha):
---------------	------------------------------

10.6

Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

10.7

Description of surplus dwelling lands proposed to be severed:

Frontage (m): (from Section 4.1)	Area (m <sup>2</sup> or ha): (from Section 4.1)
----------------------------------	---

Front yard set back: \_\_\_\_\_

a) Date of construction:

- Prior to December 16, 2004
- After December 16, 2004

b) Condition:

- Habitable
- Non-Habitable

## 11 COMPLETE APPLICATION REQUIREMENTS

### 11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application Form
- Signatures Sheet

### 11.2 Validation of Title

- All information documents in Section 11.1
- Detailed history of why a Validation of Title is required
- All supporting materials indicating the contravention of the Planning Act, including PIN documents and other items deemed necessary.

### 11.3 Cancellation

- All information documents in Section 11.1
- Detailed history of when the previous consent took place.
- All supporting materials indicating the cancellation subject lands and any neighbouring lands owned in the same name, including PIN documents and other items deemed necessary.

### 11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
- Minimum Distance Separation Formulae (data sheet available upon request)
- Hydrogeological Assessment
- Septic Assessment
- Archeological Assessment
- Noise Study
- Parking Study

---

---

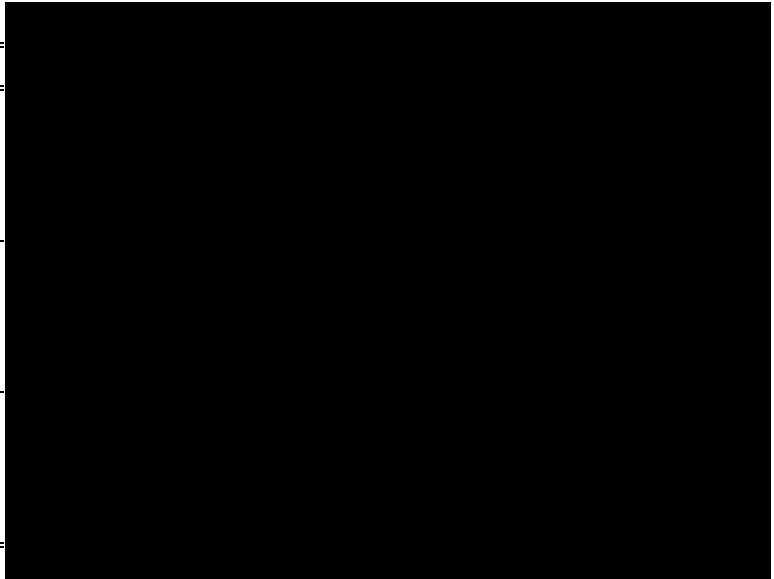


Hamilton

**APPLICATION FOR A MINOR VARIANCE/PERMISSION**  
 UNDER SECTION 45 OF THE *PLANNING ACT*

**1. APPLICANT INFORMATION**

	NAME
Registered Owners(s)	
Applicant(s)	
Agent or Solicitor	



1.2 All correspondence should be sent to  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.3 Sign should be sent to  Purchaser  Owner  
 Applicant  AgentSolicitor

1.4 Request for digital copy of sign  Yes\*  No

If YES, provide email address where sign is to be sent

1.5 All correspondence may be sent by email  Yes\*  No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.

**2. LOCATION OF SUBJECT LAND**

2.1 Complete the applicable sections:

Municipal Address	764 Valens Road		
Assessment Roll Number			
Former Municipality	Flamborough		
Lot	PT LT 25	Concession	CON 4 BEVERLY
Registered Plan Number		Lot(s)	
Reference Plan Number (s)	62R17114/62R8514	Part(s)	PARTS 1, 2, 3, & 4

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes  No

If YES, describe the easement or covenant and its effect:

15.240 WIDE SUN-CANADIAN PIPELINE EASEMENT, AS IN INST. No. 21718

### 3. PURPOSE OF THE APPLICATION

**Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled**

All dimensions in the application form are to be provided in metric units (millimetres, metres, hectares, etc.)

3.1 Nature and extent of relief applied for:

1. To permit a minimum lot area of 0.24 ha for the severed lot, whereas the Zoning By-law requires 0.4 ha
2. To permit a minimum lot area of 26.0 ha for the retained lot, whereas the Zoning By-law requires 40.4 ha
3. To permit a minimum side yard setback of 13.0 m for the retained lot, whereas the Zoning By-law requires 15.0 m

Second Dwelling Unit  Reconstruction of Existing Dwelling

3.2 Why it is not possible to comply with the provisions of the By-law?

Please refer to the Cover Letter prepared by Arcadis.

3.3 Is this an application 45(2) of the Planning Act.

Yes  No

If yes, please provide an explanation:

### 4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

\*\*\* Refer to Concurrent Consent Application and Consent Sketch for Proposed Lot Sizes Following Consent \*\*\*

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
518.4 m +/-	410.2 m +/-	26.5 ha +/-	20 m +/-

4.2 Location of all buildings and structures on or proposed for the subject lands:  
 (Specify distance from side, rear and front lot lines)

Existing:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
Single detached dwelling	19.7 m +/-	13.5 m +/-	14.7 m +/-	
Barn structure	32.5 m +/-	365.5 m +/-	13.7 m +/-	

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction

4.3. Particulars of all buildings and structures on or proposed for the subject lands (attach additional sheets if necessary):

Existing:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
Single detached dwelling	As existing	As existing	2	As existing
Barn structure	As existing	As existing	1	As existing

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height

- 4.4 Type of water supply: (check appropriate box)
- publicly owned and operated piped water system
  - privately owned and operated individual well

- lake or other water body
- other means (specify)

- 4.5 Type of storm drainage: (check appropriate boxes)
- publicly owned and operated storm sewers
  - swales

- ditches
- other means (specify)

4.6 Type of sewage disposal proposed: (check appropriate box)

- publicly owned and operated sanitary sewage
- system privately owned and operated individual
- septic system other means (specify) \_\_\_\_\_

4.7 Type of access: (check appropriate box)

- provincial highway
- municipal road, seasonally maintained
- municipal road, maintained all year
- right of way
- other public road

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):  
As existing (single detached dwelling, barn structure on farm parcel)

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):  
Single detached dwellings and farmland

**7 HISTORY OF THE SUBJECT LAND**

7.1 Date of acquisition of subject lands:

May 4, 1987

7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)

Farmland

7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)

Single detached dwelling, barn structure on farm parcel

7.4 Length of time the existing uses of the subject property have continued:

Unknown

7.5 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): Rural

Rural Settlement Area: \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable) \_\_\_\_\_

Please provide an explanation of how the application conforms with the Official Plan.

Please refer to the Cover Letter prepared by Arcadis.

7.6 What is the existing zoning of the subject land? Rural (A2) and Conservation/Hazard Land Rural (P6 and P8)

7.8 Has the owner previously applied for relief in respect of the subject property?  
(Zoning By-law Amendment or Minor Variance)

- Yes
- No

If yes, please provide the file number: \_\_\_\_\_



---

7.9 Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?  
 Yes  No

If yes, please provide the file number: Concurrent Consent Application

7.10 If a site-specific Zoning By-law Amendment has been received for the subject property, has the two-year anniversary of the by-law being passed expired?  
 Yes  No

7.11 If the answer is no, the decision of Council, or Director of Planning and Chief Planner that the application for Minor Variance is allowed must be included. Failure to do so may result in an application not being "received" for processing.

**8 ADDITIONAL INFORMATION**

8.1 Number of Dwelling Units Existing: 1

8.2 Number of Dwelling Units Proposed: 0

8.3 Additional Information (please include separate sheet if needed):

Please refer to the Cover Letter prepared by Arcadis.

## 11 COMPLETE APPLICATION REQUIREMENTS

### 11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application form
- Signatures Sheet

### 11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
  - Authorization from Council or Director of Planning and Chief Planner to submit application for Minor Variance
  - Minimum Distance Separation Formulae (data sheet available upon request)
  - Hydrogeological Assessment
  - Septic Assessment
  - Archeological Assessment
  - Noise Study
  - Parking Study
- 
-