



City of Hamilton
PLANNING COMMITTEE
AGENDA

Meeting #: 25-001
Date: January 14, 2025
Time: 9:30 a.m.
Location: Council Chambers
Hamilton City Hall
71 Main Street West

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

	Pages
1. CALL TO ORDER	
2. CEREMONIAL ACTIVITIES	
3. APPROVAL OF AGENDA (Added Items, if applicable, will be noted with *)	
4. DECLARATIONS OF INTEREST	
5. APPROVAL OF MINUTES OF PREVIOUS MEETING	
5.1 December 3, 2024	5
6. DELEGATIONS	
6.1 Alberto Luis, CURO Canada Corp/Cash Money, respecting the Payday Loans Report (Item 9.7) (For today's meeting)	
7. ITEMS FOR INFORMATION	
7.1 PED25000 Appeal of Zoning By-law Amendment Application ZAC-23-010 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 299, 307 and 325 Fiddler's Green Road, Ancaster (Ward 12)	47

7.2	PED25019	64
	Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications (City Wide)	
8.	PUBLIC HEARINGS	
8.1	PED25020	82
	Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (Ward 9)	
8.2	PED25026	108
	Increase to Building Permit Fees (City Wide)	
9.	ITEMS FOR CONSIDERATION	
9.1	PED25027	130
	Demolition Permit – 58 Carluke Road West (Ward 12)	
9.2	PED25028	
	Demolition Permit - 10-16 Kenilworth Avenue North (Ward 4)	
	(To be distributed)	
9.3	PED25009	137
	Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (Ward 11)	
9.4	PED25023	173
	Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application B-24:42 and Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (Ward 13)	
9.5	PED25015	228
	Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the Planning Act (Stoney Creek) (Ward 10)	
9.6	PED25017	241
	City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the <i>Environmental Protection Act</i> (City Wide)	

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

9.7	PED25022 Amendment to Schedule 11 (Payday Loans businesses) of Licensing By-law 07-170 and request for relocation of an existing payday loans business (City Wide)	255
9.8	Hamilton Municipal Heritage Committee Report 24-011 - December 13, 2024	263
10.	MOTIONS	
10.1	Feasibility on the Adoption and Enforcement of a By-law to Prohibit Protests at Places of Worship and Their Facilities	511
11.	NOTICES OF MOTION	
12.	PRIVATE AND CONFIDENTIAL	
12.1	Closed Session Minutes - December 3, 2024 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 <i>Ontario Municipal Act, 2001</i> , 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.	
12.2	LS20003(b) Waterdown Bay – 392 Dundas Street East (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 <i>Ontario Municipal Act, 2001</i> , 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.	

12.3 LS24006(a)

Appeal to the Ontario Land Tribunal (OLT) for lands located at 1400 South Service Road, 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(a)) (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.

13. ADJOURNMENT



**PLANNING COMMITTEE
MINUTES
24-018**

December 3, 2024

9:30 a.m.

**Council Chambers (Hybrid), Hamilton City Hall
71 Main Street West**

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

Absent with Regrets: Councillor N. Nann – City Business

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Appointment By-law under the *Building Code Act, 1992* (PED24227) (City Wide) (Item 9.1)

(McMeekin/Pauls)

- (a) That the draft By-law attached as Appendix “A” to Report PED24227, respecting the appointment of a Chief Building Official, Deputies and Inspectors, which has been prepared in a form satisfactory to the City Solicitor, be approved and enacted; and
- (b) That By-law 22-270, being a by-law respecting the Appointments of a Chief Building Official, Deputies and Inspectors be repealed.

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

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

YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

2. Update on Green Building Standards Consultation (PED24228) (Urban Areas – City Wide) (Item 9.2)

(Kroetsch/Pauls)

That Report PED24228 respecting Update on Green Building Standards Consultation (Urban Areas – City Wide), be received.

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

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

3. Application for a Draft Plan of Subdivision for Lands Located at 75 Centennial Parkway North, Hamilton (PED24222) (Ward 5) (Item 10.1)

(Pauls/Beattie)

(a) That Draft Plan of Subdivision Application 25T-202305, by Bousfields Inc. (c/o David Falletta), on behalf of Hammer GP LP and Hammer GP Services Corp. (c/o Mark Newman), Owner, on lands located at 75 Centennial Parkway North, as shown on Appendix “A” attached to Report PED24222, be APPROVED, in accordance with By-law No. 07-323 being the delegation of the City of Hamilton’s Assigned Authority Under the Planning Act for the Approval of Subdivisions and Condominiums, on the following basis:

(i) That this approval apply to the Draft Plan of Subdivision “Part 1, Plan of Part of Lot 27 Concession 2” certified by R.A. McLaren, O.L.S., dated November 12, 2024, consisting of one block (Block 1) for commercial uses, two blocks (Blocks 2 and 9) for 91 townhouse

dwelling units, eight blocks (Blocks 3 to 8, 10, and 11) for 4,234 multiple dwelling units and 12,406 square metres of non-residential gross floor area, three blocks (Blocks 12 to 14) for privately owned public space, four blocks (Blocks 15 to 18) for right-of-way widenings, and one public right-of-way (Street 'A'), as shown on the Draft Plan of Subdivision in Appendix "B" attached to Report PED24222;

- (ii) That the Owner enter into a Standard Form Subdivision Agreement as approved by City Council and with the Special Conditions as shown in Appendix "C" attached to Report PED24222;
- (iii) That the Special Conditions of Draft Plan of Subdivision Approval, 25T-202305, as shown in Appendix "C" attached to Report PED24222, be received and endorsed by City Council;
- (iv) In accordance with the City's Comprehensive Development Guidelines and Financial Policies Manual there will be no City of Hamilton cost sharing for this subdivision;
- (v) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the issuance of each building permit, all in accordance with the Financial Policies for Development and the City's Parkland Dedication By-law, as approved by Council; and,
- (vi) That staff be directed to enter into a Privately Owned Public Space Agreement with the Owner that deals with matters including, but not limited to, the long-term ownership, maintenance, and public access of the lands identified as Blocks 12, 13 and 14 as shown on the Draft Plan of Subdivision in Appendix "B" attached to Report PED24222.

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

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

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

**4. Applications for an Official Plan Amendment and Zoning By-law
Amendment for Lands Located at 582 and 584 Highway No. 8, Stoney Creek
(PED24180) (Ward 10) (Item 10.2)**

(Francis/McMeekin)

- (a) That Amended Official Plan Amendment application UHOPA-21-006, by WEBB Planning Consultants c/o James Webb on behalf of Simnat Consulting Inc., Owner, to redesignate the subject lands from “Low Density Residential 3c” to “Medium Density Residential 3” and to establish a Site Specific Policy Area in the Western Development Area Secondary Plan to increase the permitted height to four storeys and permit a maximum density of 164 units per hectare, for lands located at 582 and 584 Highway No. 8, as shown on Appendix “A” attached to Report PED24180, be APPROVED on the following basis:
- (i) That the draft Amended Official Plan Amendment, attached as Appendix “B” attached to Report PED24180, be adopted by City Council;
 - (ii) That the proposed Amended Official Plan Amendment is consistent with the Provincial Planning Statement (2024) and conforms to the Niagara Escarpment Plan (2017).
- (b) That Amended Zoning By-law Amendment application ZAC-21-011, by WEBB Planning Consultants c/o James Webb on behalf of Simnat Consulting Inc., Owner, for a change in zoning from the Single Residential “R2” Zone (Block 1) and the Neighbourhood Development “ND” Zone (Block 2) to the Multiple Residential “RM3-75(H)” Zone, Modified, Holding, to permit a four storey multiple dwelling containing 50 dwelling units and 65 parking spaces, for lands located at 582 and 584 Highway No. 8, as shown on Appendix “A” attached to Report PED23089, be APPROVED on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED24180, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the draft 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’ as a suffix the proposed zoning for the following:

The Holding Provision for the Multiple Residential “RM3-75(H)” Zone, Modified, Holding, is to be removed conditional upon:

- (1) That the owner confirms that the construction of the municipal sanitary sewer along DeWitt Road has been completed and is fully operational to provide sewer capacity for the proposed development, to the satisfaction of the Director of Growth Management and Chief Development Engineer;
- (2) That the owner has paid a proportionate share of the costs associated with the municipal sanitary sewer construction along DeWitt Road, to the satisfaction of the Director of Growth Management and Chief Development Engineer; and,
- (iii) That the proposed changes in zoning are consistent with the Provincial Planning Statement (2024), conform to the Niagara Escarpment Plan (2017, as amended), and will comply with the Urban Hamilton Official Plan and the Western Development Area Secondary Plan upon adoption of the Official Plan Amendment.

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

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

5. Applications for Zoning By-law Amendment and Draft Plan of Subdivision for Lands Located at 760 Stone Church Road East, 153 and 224 Eaglewood Drive, and 49 Eleanor Avenue, Hamilton (PED24177) (Ward 6) (Item 10.3)

(Francis/Beattie)

- (a) That Zoning By-law Amendment application ZAC-23-016, by A.J. Clarke and Associates Ltd. (c/o Ryan Ferrari), on behalf of 5025299 Ontario Inc. (c/o Ali Alaichi), Owner, for a change in zoning from the “C/S-1822” (Urban Protected Residential, etc) District, Modified, the “R-4-H/S-1713” (Small Lot Single Family Dwelling - Holding) District, Modified, the “R-4/S-1822”

(Small Lot Single Family Dwelling) District, Modified, and the Low Density Residential (R1) Zone to the Low Density Residential – Small Lot (R1a, 918) Zone, the Low Density Residential – Small Lot (R1a, 921) Zone, and the Low Density Residential (R1, H188) Zone, to permit the development of 27 single detached dwellings (16 single detached dwellings facing onto the public road and 11 single detached dwellings facing onto a private condominium road) on lands located at 760 Stone Church Road East, 153 and 224 Eaglewood Drive, and 49 Eleanor Avenue, as shown in Appendix “A” attached to Report PED24177, be APPROVED on the following basis:

- (i) That the Draft By-law attached as Appendix “B” attached to Report PED24177, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed change in zoning is consistent with the Provincial Planning Statement (2024) and complies with the Urban Hamilton Official Plan.
- (iii) 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 (Block 3 as shown in Appendix “B” attached to report PED24177) by including the Holding ‘H188’ to the proposed Low Density Residential (R1) Zone.

The Holding Provision ‘H188’ is to be removed conditional upon:

- a. Land consolidation with the adjacent lands to the east, known municipally as 738 Stone Church Road East, has occurred to ensure comprehensive development, to the satisfaction of the Director of Development Planning.
- (b) That Draft Plan of Subdivision application 25T-202301, by A.J. Clarke and Associates Ltd. (c/o Ryan Ferrari), on behalf of 5025299 Ontario Inc. (c/o Ali Alaichi), Owner, on lands located at 760 Stone Church Road East, 153 and 224 Eaglewood Drive, and 49 Eleanor Avenue (Hamilton), as shown in Appendix “A” attached to Report PED24177, be APPROVED in accordance with By-law No. 07-323 being the delegation of the City of Hamilton’s Assigned Authority Under the *Planning Act* for the Approval of Subdivisions and Condominiums, on the following basis:
 - (i) That this approval apply to the Draft Plan of Subdivision 25T-202301, prepared by A.J. Clarke and Associates Ltd., and certified by Nicholas P. Muth, O.L.S., dated October 25, 2024, consisting of 16 lots for single detached dwellings (Lots 1-16), one block for the future development of 11 single detached dwellings on a private condominium road (Block 17), one block as a remnant development

block (Block 18), one block for a Daylighting Triangle (Block 19), and the extension of Eaglewood Drive on the east and west of side of Eleanor Avenue, as shown in Appendix “G” attached to Report PED24177;

- (ii) That the Owner enter into a Standard Form Subdivision Agreement as approved by City Council and with the Special Conditions as shown in Appendix “F” attached to Report PED24177, be received, and endorsed by City Council;
 - (iii) That the Special Conditions of Draft Plan of Subdivision Approval, 25T-202301, as shown in Appendix “F” attached to Report PED24177, be received and endorsed by City Council;
 - (iv) That in accordance with the City’s Comprehensive Development Guidelines and Financial Policies Manual there will be no City of Hamilton cost sharing for this subdivision; and,
 - (v) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the issuance of each building permit, all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.
- (c) That upon approval of Zoning By-law Amendment Application ZAC-23-016, the Eleanor Neighbourhood Plan be amended by removing the Proposed Road extending north from Eaglewood drive into a cul-de-sac, on the lands municipally known as 760 Stone Church Road East, north of Eaglewood Drive and east of Eleanor Avenue, as shown in Appendix “H” attached to Report PED24177.

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

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

YES – Ward 15 Councillor T. McMeekin

6. Applications for an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision for Lands Located at 9555 Airport Road West, Glanbrook (PED24195) (Ward 11) (Item 10.4)

(Tadeson/Beattie)

- (a) That Amended Official Plan Amendment Application UHOPA-21-008, by A.J. Clarke and Associates Ltd. (c/o Stephen Fraser) on behalf of Hopewell Developments Inc., Owner, to amend the Urban Hamilton Official Plan by identifying lands as “Core Areas” and removing the identification of the eastern “Key Hydrologic Feature Streams” on Schedule B – Natural Heritage System, to add the identification of “Key Natural Heritage and Key Hydrologic Feature Wetlands” on Schedule B-4 – Detailed Natural Heritage Features Key Natural Heritage Features and Key Hydrologic Feature Wetlands, to remove the identification of “Key Hydrologic Feature Streams” on Schedule B-8 – Detailed Natural Heritage Features Key Hydrologic Feature Streams within the Urban Hamilton Official Plan Volume 1, to amend the Airport Employment Growth District Secondary Plan by adding “Site Specific Policy – Area X” and “Site Specific Policy Area Y” on the Airport Employment Growth District Secondary Plan – Land Use Plan, identifying a wetland as “Core Areas”, removing the identification of “Support/Indirect Fish Habitat”, and changing the identification from “Seasonal Habitat” to “Support/Indirect Fish Habitat” on the Airport Employment Growth District Secondary Plan – Natural Heritage System, to permit employment uses (warehousing) and to recognize a wetland and watercourse, for lands located at 9555 Airport Road West, as shown in Appendix “A” attached to Report PED24195, be APPROVED on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED24195, be adopted by City Council; and,
 - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Planning Statement (2024).
- (b) That Amended Zoning By-law Amendment Application ZAC-21-018, by A.J. Clarke and Associates Ltd. (c/o Stephen Fraser) on behalf of Hopewell Developments Inc., Owner, for a change in zoning from the Airport Related Business (M8, H37) Zone to the Airport Related Business (M8, 919) Zone and the Conservation/Hazard Land (P5, 920) Zone, add warehousing as a permitted use, provide site specific regulations for warehousing, and removal of the ‘H37’ Holding Provision, for lands located at 9555 Airport Road West, as shown on attached Appendix “A” to Report PED24195, be APPROVED on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED24195, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the proposed changes in zoning are consistent with the Provincial Planning Statement (2024); and,
 - (iii) That this amending By-law will comply with the Urban Hamilton Official Plan and the Airport Employment Growth District Secondary Plan upon adoption of Official Plan Amendment No. ____.
- (c) That Amended Draft Plan of Subdivision Application 25T-202106, by A.J Clarke and Associates Ltd. (c/o Steven Fraser), on behalf of Hopewell Developments Inc., Owner, on lands located at 9555 Airport Road West, as shown on Appendix “A” attached to Report PED24195, be APPROVED, in accordance with By-law No. 07-323 being the delegation of the City of Hamilton’s Assigned Authority Under the *Planning Act* for the Approval of Subdivisions and Condominiums, on the following basis:
- (i) That this approval apply to the Draft Plan of Subdivision 25T-202106, titled “9555 Airport Road” certified by Nicholas P. Muth, O.L.S., dated February 13, 2024, consisting of two blocks for employment uses (Blocks 1 and 2), one block for a right-of-way dedication (Block 3), and the extension of a public road (Street ‘A’), as shown on Appendix “F” attached to Report PED24195;
 - (ii) That the Owner enter into a Standard form Subdivision Agreement as approved by City Council and with the Special Conditions of Draft Plan of Subdivision Approval, 25T-202106, as shown on Appendix “G” attached to Report PED24195, be received and endorsed by City Council;
 - (iii) That in accordance with the City’s Comprehensive Development Guidelines and Financial Policies Manual there will be no City of Hamilton cost sharing for this subdivision; and,
 - (iv) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the issuance of each building permit, all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

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

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

**7. Fruitland-Winona Secondary Plan Block 1 Servicing Strategy (PED24209)
(Ward 10) (Item 10.5)**

(Beattie/Tadeson)

- (a) That the Draft Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands in Phase 1 West of Jones Road, prepared by Urbantech Consulting, dated October 2024, on behalf of the Block 1 land ownership group (Land Owner Group membership, as shown on Appendix “E” to Report PED24209, is Marz Homes, Melrose Group, Chiaravalle Homes, Benemar Homes, Mountainview Fruitland, Mountainview Serland, Serland and 212/218 Fruitland Road), attached as Appendix “A” to Report PED24209, be received;
- (b) That Planning and Economic Development staff be directed and authorized to consult on the Draft Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands in Phase 1 West of Jones Road, and that staff report back on the results of the consultation to Planning Committee in Q1 2025;
- (c) That Planning and Economic Development staff be directed to develop an Implementation Plan for the Draft Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands in Phase 1 West of Jones Road, including any necessary adjustments to the Block Servicing Strategy and any Official Plan Amendments and report back to Planning Committee in Q1 2025;
- (d) That Planning and Economic Development Department staff report back to Planning Committee with the Final Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report – Phase 1 West of Jones Road in Q1 2025;

- (e) That the Final Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report – Phase 1 West of Jones Road, prepared by Urbantech Consulting, dated October 2024, be used by Planning and Economic Development staff in reviewing development applications within the Block 1 Servicing Strategy area in the Fruitland-Winona Secondary Plan area;
- (f) That Council direct Planning and Economic Development staff to prepare Phase 2 of the Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands east of Jones Road upon resolution of outstanding Ontario Land Tribunal appeals, including consultation and development of an Implementation Strategy, with funding for the study to be referred to the Capital Budget process;
- (g) That the General Manager of Planning and Economic Development in consultation with the General Manager of Finance and Corporate Services be directed and authorized to negotiate the terms of an Agreement with the Block 1 Land Owner Group based on the principles outlined on page 14 of Report PED24209 for the purposes of permitting the installation of Core Infrastructure to support development of Block 1 in the Fruitland Winona Secondary Plan Area in advance of formal development approvals;
- (h) That Planning and Economic Development staff report back to Council with details of the Agreement, including requesting authority to execute the Agreement no later than Q3 2025.
- (i) ***That consultation and the final block servicing strategy include alternatives to maintain and enhance natural watercourses and floodplains in alignment with the City's climate change and biodiversity action plans, consider realigning development densities, while providing engineering options to alleviate local current and future potential flooding.***

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

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

YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

8. Demolition Permits – 3070, 3078, 3160, 3168 and 3190 Regional Road 56 (PED24229) (Ward 11) (Item 11.2)

(Tadeson/Kroetsch)

- (a) That the request to issue a demolition permit prior to the owner obtaining final Site Plan Approval for redevelopment of 3070 and 3160 Regional Road 56 be GRANTED since the houses are in poor condition;
- (b) That the request to issue a demolition permit prior to the owner obtaining final Site Plan Approval for redevelopment of 3078 Regional Road 56 be DENIED since the house is in good condition, there are outstanding heritage issues, and staff consider the application to be premature;
- (c) That the request to issue a demolition permit prior to the owner obtaining final Site Plan Approval for redevelopment of 3168 and 3190 Regional Road 56 be DENIED since the houses are in fair condition, boarded up and secure, and staff consider the application to be premature;
- (d) That the Chief Building Official be authorized to issue a demolition permit for 3078, 3168 and 3190 Binbrook Road in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act* once final Site Plan Control approval has been granted for redevelopment of the property in accordance with section 6(b) of the Demolition Control Area By-law 22-101.

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

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

9. **Demolition Permit - 3033 and 3047 Binbrook Road (PED24138) (Ward 11)
(Deferred from the October 18th meeting) (Item 11.3)**

(Tadeson/Pauls)

That the Chief Building Official be authorized to issue demolition permits for 3033 and for 3047 Binbrook Road in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act* as amended, without having final Site Plan approval for the redevelopment of the property, and without having to comply with section 6(b) of the Demolition Control Area By-law 22-101.

Result: Motion CARRIED by a vote of 8 to 3, as follows:

NO – Ward 1 Councillor M. Wilson
 NO – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls⁸
 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
 NO – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

10. **Hamilton Municipal Heritage Committee Report 24-010 (Item 11.4)**

(Kroetsch/A. Wilson)

**(a) Recommendation to Designate 223 Governor's Road, Dundas
(Starfield), under Part IV of the *Ontario Heritage Act*
(PED24181) (Ward 13) (Item 8.1)**

(i) That the City Clerk be directed to give notice of Council's intention to designate 223 Governor's Road, Dundas, shown in Appendix "A" attached to Report PED24181, as a property of cultural heritage value pursuant to the provisions of Part IV, Section 29 of the *Ontario Heritage Act*, in accordance with the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix "B" to Report PED24181, subject to the following:

(1) If no objections are received to the notice of intention to designate in accordance with the *Ontario Heritage Act*, City Council directs staff to introduce the necessary by-law to designate the property to be of cultural heritage value or interest to City Council; and

- (2) If an objection to the notice of intention to designate is received in accordance with the *Ontario Heritage Act*, City Council directs staff to report back to Planning Committee to allow Council to consider the objection and decide whether or not to withdraw the notice of intention to designate the property.
- (b) **Heritage Permit Application HP2024-032, Under Part V of the *Ontario Heritage Act*, to Permit the Demolition of a Detached Contemporary Rear Shed located at 2 Griffin Street, Flamborough (PED24225) (Ward 15) (Added Item 10.2)**
- (i) That Heritage Permit Application HP2024-032, for the demolition of a detached contemporary rear shed located at 2 Griffin Street, Flamborough, under Section 42 of the *Ontario Heritage Act*, be approved with the following conditions:
- (1) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and
- (2) That implementation / installation of the alteration(s), in accordance with this approval, shall be completed no later than December 31, 2026. If the alteration(s) are not completed by December 31, 2026, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.
- (ii) That appropriate notice of the Council decision on Heritage Permit Application HP2024-032 be served on the owner of 2 Griffin Street, Flamborough, and the Ontario Heritage Trust, as required under Section 42 of the *Ontario Heritage Act*.

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

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis

YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

11. Agriculture and Rural Affairs Sub-Committee Report 24-002 (Item 11.5)

(McMeekin/Beattie)

(a) Development Charges for Farm Labour Residences (no copy) (Item 11.1)

- (i) That the Hamilton-Wentworth Catholic District School Board Liaison Committee and the Hamilton-Wentworth District School Board Liaison Committee be requested to engage with their partner School Boards to understand the Development Charges system and how it pertains to agricultural buildings; and
- (ii) That as part of the engagement with the School Boards, finance staff articulate the rationale for the City's position respecting agricultural Development Charges.

(b) Farm 911 Program Update (no copy) (Item 11.2)

That staff be directed to bring forward potential changes to Farm 911 Program to the Agriculture and Rural Affairs Sub-Committee prior to reporting back to the Planning Committee.

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

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

12. Supplemental Funding for Water Main Repair at Auchmar Estate (Item 12.2)

(Danko/Pauls)

WHEREAS, the City of Hamilton is the owner and steward of Auchmar Estate and grounds in Ward 8 and is committed to the ongoing preservation and future development of Auchmar Estate and Grounds for public use; and

WHEREAS, urgent watermain replacement is required at the Auchmar Estate to replace a ruptured watermain which occurred in Winter of 2023 and to provide water for running the boiler for heating systems,

THEREFORE, BE IT RESOLVED:

- (a) That Heritage Resource Management staff be directed to complete the replacement of the main water main at Auchmar Estate including all necessary design work, surveys and archaeology;
- (b) That the sourcing and replacement of the water main and necessary design work, surveys and archaeology be funded from the Ward 8 Capital Discretionary Account #108058 at an upset limit, including contingency, not to exceed \$430,000 be approved; and
- (c) That the Mayor and City Clerk be authorized and directed to execute any required agreement(s) and ancillary documents, with such terms and conditions in a form satisfactory to the City Solicitor.

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

- 13. Appeal to the Ontario Land Tribunal for lands located at 509 Southcote Road, Ancaster, for Lack of Decision on Official Plan Amendment Application UHOPA-23-010 and Zoning By-law Amendment Application ZAC-23-025 (Ward 12) (LS23030(a)) (Item 15.2)**

(McMeekin/Tadeson)

- (a) That the directions to staff in Closed Session respecting Report LS24030(a) be approved;
- (b) That closed session recommendations (a), (b), and (c) to Report LS23030(a), be approved and remain confidential until made public as the City's position before the Ontario Land Tribunal; and,
- (c) That the balance of Report LS23030(a) remain confidential.

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

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

14. Appeal to the Ontario Land Tribunal (OLT-22-004759) for Official Plan Amendment (UHOPA-21-014) and Zoning By-law Amendment Applications (ZAC-21-031) for Lands Located at 405 James Street North (LS23012(d)) (Ward 2) (Item 15.3)

(Kroetsch/A. Wilson)

That report LS23012(d) respecting Appeal to the Ontario Land Tribunal (OLT-22-004759) for Official Plan Amendment (UHOPA-21-014) and Zoning By-law Amendment Applications (ZAC-21-031) for Lands Located at 405 James Street North, be received and remain confidential.

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

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

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

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

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

5. COMMUNICATIONS

5.1 Communications respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1)

- (iii) Scott Dobin
- (iv) Sarah Van Berkel
- (v) Bob Carr and Maggie Carr
- (vi) Rae Bates
- (vii) Robert Coxe
- (viii) Jean Jacobs
- (ix) Lara Stewart
- (x) Mary Anne Peters
- (xi) Catherine Smith
- (xii) Greg Schultz
- (xiii) Barbara Patterson
- (xiv) Michel Proulx
- (xv) Robert Iszkula
- (xvi) Jan Willem Jansen
- (xvii) Alex Matheson
- (xviii) Kelvin Mutter
- (xix) Gail Moffatt
- (xx) Susanne Prue
- (xxi) Peter Scholtens
- (xxii) Jason Swenor
- (xxiii) Liz Jackson
- (xxiv) Josiah Witt
- (xxv) Lisa Cole
- (xxvi) David Krysko
- (xxvii) Rob Booth and Linda Varangu
- (xxviii) Nonni Iler
- (xxix) Siobhan Koch, IMBY Homes
- (xxx) Laurie Galer
- (xxxi) Harriet Woodside
- (xxxii) Chris Cardey and Theresa Cardey

- (xxxiii) Rose Janson
- (xxxiv) Mike Mazurkiewicz
- (xxxv) Vicky Sutherland
- (xxxvi) Victoria Koch
- (xxxvii) Douglas Horst
- (xxxviii) Pauline Prowse
- (xxxix) Heather Vaughan
- (xl) Miriam Sager
- (xli) Elizabeth Knight
- (xlii) Mary Ann Frerotte
- (xliii) Megan Saunders
- (xliv) Dianne Wilson
- (xlv) Alison Witt
- (xlvi) Ellen Wall
- (xlvii) Verena Walter & Greg Walter
- (xlviii) Shaila Sinke
- (xlix) Irene Schieb
- (l) Bonnie McInnes
- (li) Gloria Peters
- (lii) Zita Bersenas-Cers
- (liii) Bill Curran
- (liv) Matias Rozenberg
- (lv) Donald Cameron
- (lvi) Alex Adams
- (lvii) Angie McNulty
- (lviii) Gord McNulty
- (lix) Sarah Jenner
- (lx) Dan Shannon
- (lxi) Mary Love
- (lxii) Kristin Scarfone
- (lxiii) Daniel Quaglia
- (lxiv) Maya Zane
- (lxv) Michelle Tom
- (lxvi) Ruth Frager
- (lxvii) Rick Johnson
- (lxviii) Heather Yoell
- (lxix) Domenica Succi
- (lxx) Austin Mulder
- (lxxi) Cynthia Meyer
- (lxxii) Alicia Wilson
- (lxxiii) Michelle Torsney
- (lxxiv) David VanderWindt
- (lxxv) Claude Jarvis
- (lxxvi) Margaret Tremblay
- (lxxvii) Geoff Palmer
- (lxxviii) Brian Dijkema and Nicole Dijkema

(lxxix) Liz Perez
(lxxx) Pierre Roy
(lxxxi) Anthony Salemi, West End Home Builders' Association
(lxxxii) Jen Vanderherberg
(lxxxiii) Christine Quail

6. DELEGATION REQUESTS

6.1 Delegations respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1) (For today's meeting)

- (i) Phil Pothen
- (ii) Chris Harrison
- (iii) Tim Leslie
- (iv) Siobhan Koch, IMBY Homes
- (v) Emma Cubitt, Invizij Architects

10. PUBLIC HEARINGS

10.1 Application for a Draft Plan of Subdivision for Lands Located at 75 Centennial Parkway North, Hamilton (PED24222) (Ward 5) - Revised Appendix "C"

- (a) Staff Presentation

10.2 Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 582 and 584 Highway No. 8, Stoney Creek (PED24180) (Ward 10)

- (a) Staff Presentation

10.3 Applications for Zoning By-law Amendment and Draft Plan of Subdivision for Lands Located at 760 Stone Church Road East, 153 and 224 Eaglewood Drive, and 49 Eleanor Avenue, Hamilton (PED24177) (Ward 6)

- (a) Staff Presentation

10.4 Applications for an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision for Lands Located at 9555 Airport Road West, Glanbrook (PED24195) (Ward 11)

- (a) Staff Presentation

10.5 Fruitland-Winona Secondary Plan Block 1 Servicing Strategy (PED24209) (Ward 10)

(a) Staff Presentation

11. DISCUSSION ITEMS

11.1 Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application B-24:42 & Committee of Adjustment Decision to Approve Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (PED24196) (Ward 13)

Deferred to a future meeting.

13. NOTICES OF MOTION

13.1 Feasibility on the Adoption and Enforcement of a By-law to Prohibit Protests at Places of Worship and Their Facilities

(Beattie/Pauls)

That the agenda for the December 3, 2024, Planning Committee meeting be approved, as amended.

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

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

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

(i) November 19, 2024 (Item 4.1)

(Beattie/McMeekin)

That the Minutes of the November 19, 2024 meeting be approved, as presented.

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

(d) COMMUNICATIONS (Item 5)

(i) Communications respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1) (Item 5.1)

(A. Wilson/M. Wilson)

That the following Communications, respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods, be received and referred to the consideration of Item 12.1:

- (a) Matt Ridley (Item 5.1(i))
- (b) Colin Longworth (Item 5.1(ii))
- (c) Scott Dobin (Added Item 5.1(iii))
- (d) Sarah Van Berkel (Added Item 5.1(iv))
- (e) Bob Carr and Maggie Carr (Added Item 5.1(v))
- (f) Rae Bates (Added Item 5.1(vi))
- (g) Robert Coxe (Added Item 5.1(vii))
- (h) Jean Jacobs (Added Item 5.1(viii))
- (i) Lara Stewart (Added Item 5.1(ix))
- (j) Mary Anne Peters (Added Item 5.1(x))
- (k) Catherine Smith (Added Item 5.1(xi))
- (l) Greg Schultz (Added Item 5.1(xii))
- (m) Barbara Patterson (Added Item 5.1(xiii))
- (n) Michel Proulx (Added Item 5.1(xiv))
- (o) Robert Iszkula (Added Item 5.1(xv))
- (p) Jan Willem Jansen (Added Item 5.1(xvi))
- (q) Alex Matheson (Added Item 5.1(xvii))
- (r) Kelvin Mutter (Added Item 5.1(xviii))

- (s) Gail Moffatt (Added Item 5.1(xix))
- (t) Susanne Prue (Added Item 5.1(xx))
- (u) Peter Scholtens (Added Item 5.1(xxi))
- (v) Jason Swenor (Added Item 5.1(xxii))
- (w) Liz Jackson (Added Item 5.1(xxiii))
- (x) Josiah Witt (Added Item 5.1(xxiv))
- (y) Lisa Cole (Added Item 5.1(xxv))
- (z) David Krysko (Added Item 5.1(xxvi))
- (aa) Rob Booth and Linda Varangu (Added Item 5.1(xxvii))
- (ab) Nonni Iler (Added Item 5.1(xxviii))
- (ac) Siobhan Koch, IMBY Homes (Added Item 5.1(xxix))
- (ad) Laurie Galer (Added Item 5.1(xxx))
- (ae) Harriet Woodside (Added Item 5.1(xxxi))
- (af) Chris Cardey and Theresa Cardey (Added Item 5.1(xxxii))
- (ag) Rose Janson (Added Item 5.1(xxxiii))
- (ah) Mike Mazurkiewicz(Added Item 5.1(xxxiv))
- (ai) Vicky Sutherland (Added Item 5.1(xxxv))
- (aj) Victoria Koch (Added Item 5.1(xxxvi))
- (ak) Douglas Horst (Added Item 5.1(xxxvii))
- (al) Pauline Prowse (Added Item 5.1(xxxviii))
- (am) Heather Vaughan (Added Item 5.1(xxxix))
- (an) Miriam Sager (Added Item 5.1 (xl))
- (ao) Elizabeth Knight (Added Item 5.1 (xli))
- (ap) Mary Ann Frerotte (Added Item 5.1 (xlii))
- (aq) Megan Saunders (Added Item 5.1 (xliii))
- (ar) Dianne Wilson (Added Item 5.1 (xliv))
- (as) Alison Witt (Added Item 5.1 (xlv))
- (at) Ellen Wall (Added Item 5.1 (xlvi))
- (au) Verena Walter & Greg Walter (Added Item 5.1 (xlvii))
- (av) Shaila Sinke (Added Item 5.1 (xlviii))
- (aw) Irene Schieb (Added Item 5.1 (xlix))
- (ax) Bonnie McInnes (Added Item 5.1 (l))
- (ay) Gloria Peters (Added Item 5.1 (li))
- (az) Zita Bersenas-Cers (Added Item 5.1 (lii))
- (ba) Bill Curran (Added Item 5.1 (liii))
- (bb) Matias Rozenberg (Added Item 5.1 (liv))
- (bc) Donald Cameron (Added Item 5.1 (lv))
- (bd) Alex Adams (Added Item 5.1 (lvi))
- (be) Angie McNulty (Added Item 5.1 (lvii))
- (bf) Gord McNulty (Added Item 5.1 (lviii))
- (bg) Sarah Jenner (Added Item 5.1 (lix))
- (bh) Dan Shannon (Added Item 5.1 (lx))
- (bi) Mary Love (Added Item 5.1 (lxi))
- (bj) Kristin Scarfone (Added Item 5.1 (lxii))
- (bk) Daniel Quaglia (Added Item 5.1 (lxiii))
- (bl) Maya Zane (Added Item 5.1 (lix))

- (bm) Michelle Tom (Added Item 5.1 (Ix))
- (bn) Ruth Frager (Added Item 5.1 (Ixi))
- (bo) Rick Johnson (Added Item 5.1 (Ixii))
- (bp) Heather Yoell (Added Item 5.1 (Ixiii))
- (bq) Domenica Succi (Added Item 5.1 (Ixiv))
- (br) Austin Mulder (Added Item 5.1 (Ixv))
- (bs) Cynthia Meyer (Added Item 5.1 (Ixvi))
- (bt) Alicia Wilson (Added Item 5.1 (Ixvii))
- (bu) Michelle Torsney (Added Item 5.1 (Ixviii))
- (bv) David VanderWindt (Added Item 5.1 (Ixix))
- (bw) Claude Jarvis (Added Item 5.1 (Ixx))
- (bx) Margaret Tremblay (Added Item 5.1 (Ixxi))
- (by) Geoff Palmer (Added Item 5.1 (Ixxii))
- (bz) Brian Dijkema and Nicole Dijkema (Added Item 5.1 (Ixxiii))
- (ca) Liz Perez (Added Item 5.1 (Ixxiv))
- (cb) Pierre Roy (Added Item 5.1 (Ixxv))
- (cc) Anthony Salemi, West End Home Builders' Association (Added Item 5.1 (Ixxvi))
- (cd) Jen Vanderherberg (Added Item 5.1 (Ixxvii))
- (ce) Christine Quail (Added Item 5.1 (Ixxviii))

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
- YES – Ward 7 Councillor E. Pauls
- NOT PRESENT – Ward 8 Councillor J.P. Danko
- YES – Ward 10 Councillor J. Beattie
- YES – Ward 11 Councillor M. Tadeson
- YES – Ward 12 Councillor C. Cassar
- YES – Ward 13 Councillor A. Wilson
- YES – Ward 15 Councillor T. McMeekin

(e) DELEGATION REQUESTS (Item 6)

(i) (Tadeson/McMeekin)

That the following Delegation Requests be approved:

- (a)** Delegation Requests respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1) (For today's meeting) (Added Item 6.1)

- (i) Phil Pothen (virtually)

- (ii) Chris Harrison Cubitt, Invizij Architects (virtually)
- (iii) Tim Leslie (in-person)
- (iv) Siobhan Koch, IMBY Homes (pre-recorded)
- (v) Emma Cubitt, Invizij Architects (pre-recorded)

- (b) Travis Skelton respecting Demolition Permits for 3070 – 3190 Regional Road 56 (Item 11.2) (For today's meeting) (Added Item 6.2)

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

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

(f) DELEGATIONS (Item 7)

- (i) **Matt Johnston, UrbanSoloutions, respecting 3033 and 3047 Binbrook Road (Item 11.3) (Deferred from the October 18th meeting) (Item 7.1)**

Matt Johnston, UrbanSolutions, addressed the Committee respecting 3033 and 3047 Binbrook Road (Item 11.3).

(Tadeson/Pauls)

That the Delegation from Matt Johnston, UrbanSolutions, respecting 3033 and 3047 Binbrook Road (Item 11.3), be received.

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

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

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

(ii) Delegations respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1) (Added Item 7.2)

The following delegates addressed the Committee respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1):

- (a) Phil Pothen (virtually) (Added Item 7.2(i))
- (b) Chris Harrison Cubitt, Invizij Architects (virtually) (Added Item 7.2(ii))
- (c) Tim Leslie (in-person) (Added Item 7.2(iii))
- (d) Siobhan Koch, IMBY Homes (pre-recorded) (Added Item 7.2(iv))
- (e) Emma Cubitt, Invizij Architects (pre-recorded) (Added Item 7.2(v))

(A. Wilson/Kroetsch)

That the following Delegations respecting Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods, be received.

- (a) Phil Pothen (virtually) (Added Item 7.2(i))
- (b) Chris Harrison Cubitt, Invizij Architects (virtually) (Added Item 7.2(ii))
- (c) Tim Leslie (in-person) (Added Item 7.2(iii))
- (d) Siobhan Koch, IMBY Homes (pre-recorded) (Added Item 7.2(iv))
- (e) Emma Cubitt, Invizij Architects (pre-recorded) (Added Item 7.2(v))

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

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

(iii) Travis Skelton respecting Demolition Permits for 3070 – 3190 Regional Road 56 (Item 11.2) (Added Item 7.3)

Travis Skelton addressed the Committee respecting 3070 - 3190 Regional Road 56 (Item 11.2).

(Tadeson/Beattie)

That the Delegation from Travis Skelton respecting 3070 - 3190 Regional Road 56 (Item 11.2), be received.

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

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

(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.

If a person or public body would otherwise have an ability to appeal the decision of Council, City of Hamilton to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to the City of Hamilton before the by-law is passed, the person or public body is not entitled to appeal the decision.

If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Hamilton before the by-law is passed, 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 Draft Plan of Subdivision for Lands Located at 75 Centennial Parkway North, Hamilton (PED24222) (Ward 5) (Item 10.1)

(a) (Francis/Kroetsch)

That the staff presentation be waived.

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

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

(b) David Faletta with Bousfields Inc. was in attendance and indicated support for the staff report.

(Pauls/Tadeson)

That the presentation from David Faletta with Bousfields Inc., be received.

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

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

(c) Chair Cassar called three times for public delegations and no one came forward.

(d) (McMeekin/Tadeson)

(a) That the public submissions (in the staff report) regarding this matter were received and considered by the Committee and;

(b) That the public meeting be closed.

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

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

For disposition of this matter, refer to Item 3.

(ii) **Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 582 and 584 Highway No. 8, Stoney Creek (PED24180) (Ward 10) (Item 10.2)**

(a) Tim Vrooman, Acting Manager – Development Planning (East), addressed the Committee with the aid of a PowerPoint presentation.

(Beattie/McMeekin)

That the staff presentation be received.

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

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

- (b) James Webb with WEBB Planning Consultants Inc. was in attendance and indicated support for the staff report.

(Beattie/McMeekin)

That the presentation from James Webb with WEBB Planning Consultants Inc., be received.

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

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

- (c) Chair Cassar called three times for public delegations and no one came forward.

(d) (Beattie/McMeekin)

(a) That the following public submissions (in the staff report) regarding this matter were received and considered by the Committee and;

(b) That the public meeting be closed.

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

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

For disposition of this matter, refer to Item 4.

(iii) Applications for Zoning By-law Amendment and Draft Plan of Subdivision for Lands Located at 760 Stone Church Road East, 153 and 224 Eaglewood Drive, and 49 Eleanor Avenue, Hamilton (PED24177) (Ward 6) (Item 10.3)

(a) (Francis/Beattie)

That the staff presentation be waived.

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

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

(b) Ryan Ferrari with A.J. Clarke and Associates Ltd., was in attendance and indicated support for the staff report.

(Francis/Beattie)

That the presentation from Ryan Ferrari with A.J. Clarke and Associates Ltd., be received.

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

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

YES – Ward 15 Councillor T. McMeekin

(c) Chair Cassar called three times for public delegations and no one came forward.

(d) **(Beattie/Pauls)**

(a) That there were no public submissions regarding this matter and,

(b) That the public meeting be closed.

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

YES – Ward 1 Councillor M. Wilson

YES – Ward 2 Councillor C. Kroetsch

NOT PRESENT – Ward 3 Councillor N. Nann

YES – Ward 4 Councillor T. Hwang

YES – Ward 5 Councillor M. Francis

YES – Ward 7 Councillor E. Pauls

YES – Ward 8 Councillor J.P. Danko

YES – Ward 10 Councillor J. Beattie

YES – Ward 11 Councillor M. Tadeson

YES – Ward 12 Councillor C. Cassar

YES – Ward 13 Councillor A. Wilson

YES – Ward 15 Councillor T. McMeekin

For disposition of this matter, refer to Item 5.

(iv) **Applications for an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision for Lands Located at 9555 Airport Road West, Glanbrook (PED24195) (Ward 11) (Item 10.4)**

(a) James Van Rooi, Senior Planner, addressed the Committee with the aid of a PowerPoint presentation.

(A. Wilson/McMeekin)

That the staff presentation be received.

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

YES – Ward 1 Councillor M. Wilson

YES – Ward 2 Councillor C. Kroetsch

NOT PRESENT – Ward 3 Councillor N. Nann

YES – Ward 4 Councillor T. Hwang

YES – Ward 5 Councillor M. Francis

YES – Ward 7 Councillor E. Pauls

YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

(b) Stephen Fraser with A.J. Clarke and Associates Ltd., was in attendance and indicated support for the staff report.

(Tadeson/Beattie)

That the presentation from Stephen Fraser with A.J. Clarke and Associates Ltd., be received.

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

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

(c) Chair Cassar called three times for public delegations and no one came forward.

(d) (Tadeson/Beattie)

(a) That the following public submissions (in the staff report) regarding this matter were received and considered by the Committee and,

(b) That the public meeting be closed.

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

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 YES – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis

YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

For disposition of this matter, refer to Item 6.

**(v) Fruitland-Winona Secondary Plan Block 1 Servicing Strategy
(PED24209) (Ward 10) (Item 10.5)**

(a) Gavin Norman, Manager - Infrastructure Planning, Margaret Fazio, Senior Project Manager, and Heather Travis, Manager of Legislative Approvals, addressed the Committee with the aid of a PowerPoint presentation.

(A. Wilson/Tadeson)

That the staff presentation be received.

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

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

(b) Angelo Cutaia with The AC3 Group, was in attendance and indicated support for the staff report.

(Beattie/A. Wilson)

That the presentation from Angelo Cutaia with The AC3 Group, 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
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 NOT PRESENT – Ward 15 Councillor T. McMeekin

(c) Chair Cassar called three times for public delegations and no one came forward.

(d) **(Beattie/A. Wilson)**

(a) That there were no public submissions received regarding this matter; and,

(b) That the public meeting be closed.

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

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

(Beattie/Tadeson)

(a) That the Draft Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands in Phase 1 West of Jones Road, prepared by Urbantech Consulting, dated October 2024, on behalf of the Block 1 land ownership group (Land Owner Group membership, as shown on Appendix “E” to Report PED24209, is Marz Homes, Melrose Group, Chiaravalle Homes, Benemar Homes, Mountainview Fruitland, Mountainview Serland, Serland and 212/218 Fruitland Road), attached as Appendix “A” to Report PED24209, be received;

- (b) That Planning and Economic Development staff be directed and authorized to consult on the Draft Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands in Phase 1 West of Jones Road, and that staff report back on the results of the consultation to Planning Committee in Q1 2025;
- (c) That Planning and Economic Development staff be directed to develop an Implementation Plan for the Draft Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands in Phase 1 West of Jones Road, including any necessary adjustments to the Block Servicing Strategy and any Official Plan Amendments and report back to Planning Committee in Q1 2025;
- (d) That Planning and Economic Development Department staff report back to Planning Committee with the Final Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report – Phase 1 West of Jones Road in Q1 2025;
- (e) That the Final Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report – Phase 1 West of Jones Road, prepared by Urbantech Consulting, dated October 2024, be used by Planning and Economic Development staff in reviewing development applications within the Block 1 Servicing Strategy area in the Fruitland-Winona Secondary Plan area;
- (f) That Council direct Planning and Economic Development staff to prepare Phase 2 of the Block Servicing Strategy Fruitland – Winona Secondary Plan Block 1 Report for lands east of Jones Road upon resolution of outstanding Ontario Land Tribunal appeals, including consultation and development of an Implementation Strategy, with funding for the study to be referred to the Capital Budget process;
- (g) That the General Manager of Planning and Economic Development in consultation with the General Manager of Finance and Corporate Services be directed and authorized to negotiate the terms of an Agreement with the Block 1 Land Owner Group based on the principles outlined on page 14 of Report PED24209 for the purposes of permitting the installation of Core Infrastructure to support development of Block 1 in the Fruitland Winona Secondary Plan Area in advance of formal development approvals;
- (h) That Planning and Economic Development staff report back to Council with details of the Agreement, including requesting authority to execute the Agreement no later than Q3 2025.

(Danko/M. Wilson)

That Report PED24209 be **amended** by adding sub-section (i) as follows:

- (i) ***That consultation and the final block servicing strategy include alternatives to maintain and enhance natural watercourses and floodplains in alignment with the City's climate change and biodiversity action plans, consider realigning development densities, while providing engineering options to alleviate local current and future potential flooding.***

Result: Amendment CARRIED by a vote of 7 to 4, as follows:

YES – Ward 1 Councillor M. Wilson
 YES – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 NO – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 NO – Ward 10 Councillor J. Beattie
 NO – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 NO – Ward 15 Councillor T. McMeekin

For disposition of this matter, refer to Item 7.

(McMeekin/Tadeson)

That the Committee Recess from 1:20 p.m. to 1:50 p.m.

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

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

The Committee reconvened at 1:53 p.m.

(h) MOTIONS (Item 12)

(i) Options to Limit SDU's to One Story in Urban/Suburban Neighbourhoods (Item 12.1)

(Danko/Pauls)

That staff report back to Planning Committee with options to reduce the 6m (two story) allowable height permitted for secondary dwelling units (SDU's) to limit construction to one story in urban/suburban neighbourhoods where a large two story building adjacent to the property line would be disruptive to neighbouring residents.

Result: Motion DEFEATED by a vote of 5 to 6, as follows:

NO – Ward 1 Councillor M. Wilson
 NO – Ward 2 Councillor C. Kroetsch
 NOT PRESENT – Ward 3 Councillor N. Nann
 NO – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 NO – Ward 12 Councillor C. Cassar
 NO – Ward 13 Councillor A. Wilson
 NO – Ward 15 Councillor T. McMeekin

(i) NOTICES OF MOTION (Item 13)

(i) Feasibility on the Adoption and Enforcement of a By-law to Prohibit Protests at Places of Worship and Their Facilities (Added Item 13.1)

Councillor M. Wilson presented the following Notice of Motion:

WHEREAS, section 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that a Municipality may pass by-laws respecting: economic, social and environmental well- being of the Municipality; health, safety and well-being of persons; and the protection of persons and property;

WHEREAS, the Canadian Charter of Rights and Freedoms protects religious expression;

WHEREAS, places of worship provide a safe space for people to come together to express their religious beliefs;

WHEREAS, acts of violence and intimidation at or near places of worship create can cause people to be hesitant to exercise their rights due to fear and/or lack of safety;

WHEREAS, the City of Hamilton's Community Safety and Well-Being Plan aims to create the community conditions where everyone is safe and has a sense of belonging;

WHEREAS, the City of Hamilton is a place where diversity and inclusivity are embraced and celebrated;

WHEREAS, the City of Hamilton respects the right to peaceful protest as a fundamental freedom afforded to all individuals. However, it also recognizes that any acts of violence, threats of violence or vandalism in the course of a protest are not protected by the Canadian Charter of Rights and Freedoms;

THEREFORE BE IT RESOLVED:

That staff be directed to prepare a report for Planning Committee's consideration no later than Q1 2025, on the feasibility of the City of Hamilton adopting and enforcing a by-law to prohibit protests at Places of Worship and their facilities– all while balancing the fundamental importance of freedom of expression and freedom of assembly, with the safety and well-being of community members accessing these places of worship and their facilities.

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

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

Anita Fabac, Acting General Manager of Planning and Economic Development, advised the Committee of the 2024 highlights, including 229 staff reports presented to the Planning Committee; 48 Statutory Public Meetings held; 600+ Development applications; 900 zoning verifications, and \$1 billion in building permit fees achieved in August.

(A. Wilson/Kroetsch)

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

(j) PRIVATE & CONFIDENTIAL (Item 15)

(i) Closed Session Minutes – November 19, 2024 (Item 15.1)

(McMeekin/Tadeson)

- (a) That the Closed Session Minutes dated November 19, 2024, be approved as presented; and,
- (b) That the Closed Session Minutes dated November 19, 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
 NOT PRESENT – Ward 4 Councillor T. Hwang
 YES – Ward 5 Councillor M. Francis
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

(Danko/Tadeson)

That Committee move into Closed Session for Item 15.2 pursuant to Section 9.3, Sub-sections (e), (f) and (k) of the City's Procedural By-law 21-021, as amended; and Section 239(2), Sub-sections (e), (f) and (k) of the *Ontario Municipal Act*, 2001, as amended as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and, a position, plan,

procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

Result: Motion CARRIED by a vote of 10 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
 YES – Ward 7 Councillor E. Pauls
 YES – Ward 8 Councillor J.P. Danko
 YES – Ward 10 Councillor J. Beattie
 YES – Ward 11 Councillor M. Tadeson
 YES – Ward 12 Councillor C. Cassar
 YES – Ward 13 Councillor A. Wilson
 YES – Ward 15 Councillor T. McMeekin

- (i) **Appeal to the Ontario Land Tribunal for lands located at 509 Southcote Road, Ancaster, for Lack of Decision on Official Plan Amendment Application UHOPA-23-010 and Zoning By-law Amendment Application ZAC-23-025 (LS23030(a)) (Ward 12) (Item 15.2)**

For disposition of this matter, refer to Item 13.

- (ii) **Appeal to the Ontario Land Tribunal (OLT-22-004759) for Official Plan Amendment (UHOPA-21-014) and Zoning By-law Amendment Applications (ZAC-21-031) for Lands Located at 405 James Street North (LS23012(d)) (Ward 2) (Item 15.3)**

For disposition of this matter, refer to Item 14.

The Committee reconvened in open session at 4:05 p.m.

- (k) **ADJOURNMENT (Item 16)**

(Beattie/Danko)

That there being no further business, the Planning Committee be adjourned at 4:08 p.m.

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

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

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

Councillor C. Cassar, Chair
Planning Committee

Lisa Kelsey
Legislative Coordinator



Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Appeal of Zoning By-law Amendment Application ZAC-23-010 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 299, 307 and 325 Fiddler's Green Road, Ancaster (PED25000) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Mark Michniak (905) 546-2424 Ext. 1224
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

In accordance with Subsection 34(11) of the *Planning Act*, a Zoning By-law Amendment application may be appealed to the Ontario Land Tribunal after 90 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 Zoning By-law Amendment application ZAC-23-010, which has been appealed for non-decision.

INFORMATION

The subject property is municipally known as 299, 307 and 325 Fiddler's Green Road (refer to Appendix "A" attached to Report PED25000), situated north of Amberly

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

SUBJECT: Appeal of Zoning By-law Amendment Application ZAC-23-010 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 299, 307 and 325 Fiddler's Green Road, Ancaster (PED25000) (Ward 12)
Page 2 of 5

Boulevard and Calvin Street intersection and south of Ravina Crescent. The property is approximately 1.2 hectares in area and is located east of Fiddler's Green Road, north of Highway 403, in Ancaster with approximately 139 metres of frontage along Fiddler's Green Road. 299 Fiddler's Green Road contains a single detached dwelling, and 307 and 325 Fiddler's Green Road contains a retirement home.

Zoning By-law Amendment application ZAC-23-010 was originally submitted by Wellings Planning Consultants Inc. c/o Glenn Wellings, on behalf of Highgate Holdings Inc. c/o Christoph Summer, on December 2, 2022, and deemed complete on January 6, 2023. The application was to facilitate the expansion of the existing retirement home on the abutting lands known as 307 and 325 Fiddler's Green Road. The proposed expansion consists of 59 units in a three storey building addition.

On September 11, 2015, the Ontario Land Tribunal (formerly the Ontario Municipal Board) approved Zoning By-law Amendment application ZAC-12-021 rezoning 307 and 325 Fiddler's Green Road as the Community Institutional (I2, 457) Zone in Zoning By-law No. 05-200. The Community Institutional (I2, 457) Zone permits a maximum of 100 suites and 120 residents, as well as site specific yard setbacks, landscaped area, and building height.

The appeal of Zoning By-law Amendment application ZAC-23-010, filed by Arnold Foster LLP on behalf of Highgate Holdings Inc., was received by the City Clerk's Office on October 21, 2024, 689 days after the receipt of the initial application and 32 days after the September 16, 2024, resubmission, included as Appendix "C" attached to Report PED25000.

PROPOSED DEVELOPMENT

The applicant is proposing to demolish the existing single detached dwelling located at 299 Fiddler's Green Road to facilitate the expansion of the existing retirement home on the abutting lands known as 307 and 325 Fiddler's Green Road. The proposed expansion consists of 59 units in a three storey building addition. The proposal will include landscaped areas and a sidewalk providing a pedestrian connection to the entrance of the existing retirement home.

The proposed addition will utilize the existing vehicle access from Fiddler's Green Road and a total of 75 parking spaces are proposed for the development. The site currently has 54 parking spaces, and 21 new parking spaces are proposed. Thirty-eight parking spaces will be provided below grade with 37 parking spaces provided at grade. The existing parking lot will be reconfigured to accommodate the proposed development and the provision of shared parking between the two buildings.

SUBJECT: Appeal of Zoning By-law Amendment Application ZAC-23-010 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 299, 307 and 325 Fiddler's Green Road, Ancaster (PED25000) (Ward 12)
Page 3 of 5

Zoning By-law Amendment Application

The subject lands at 299 Fiddler's Green Road are currently zoned Existing Residential "ER" Zone in Ancaster Zoning By-law No. 87-57. Zoning By-law Amendment application ZAC-23-010 proposes to change the zoning to a site specific Community Institutional (I2) Zone in Hamilton Zoning By-law No. 05-200. The existing retirement home on the abutting lands is currently zoned Community Institutional (I2, 457) Zone in Hamilton Zoning By-law No. 05-200 and will be incorporated into the new site specific Community Institutional (I2) Zone to consolidate the zoning across all three properties.

A number of site specific modifications are required to amend the regulations which were approved by the Ontario Land Tribunal for the existing retirement home. In order to facilitate the proposed development, as shown on the Concept Plan in Appendix "B" attached to Report PED25000, the applicant proposed the following modifications, including:

- To increase the maximum number of suites from 100 to 156;
- To increase the maximum number of residents from 120 to 170;
- To increase the maximum building coverage from 28.8% to 36%;
- To reduce the minimum rear yard from 12.0 metres to 7.0 metres;
- To reduce the minimum landscaped area from 49% to 44%;
- To remove the site specific minimum parking requirement;
- To remove the site specific 6.5 metre landscape strip requirement along the northerly lot line;
- To decrease the minimum side yard from the northerly lot line to from 23.8 metres to 6.0 metres;
- To decrease the minimum side yard from the southerly lot line from 7.5 metres to 6.0 metres; and,
- To decrease the minimum front yard from 15.0 metres to 3.0 metres.

Revised submissions dated March 25, 2024, and September 16, 2024, did not change the design but included additional information regarding the proposed setbacks, an updated Landscape Plan, an updated Functional Servicing and Stormwater Management Report, and an updated Hydrogeological Brief. The submissions did not address staff comments regarding the increase in density and reduction in yard setbacks.

Issues identified as a result of the circulation and technical review of the application, are but not limited to:

SUBJECT: Appeal of Zoning By-law Amendment Application ZAC-23-010 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 299, 307 and 325 Fiddler’s Green Road, Ancaster (PED25000) (Ward 12)
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- The proposed development does not meet the intensification criteria as set out in the Urban Hamilton Official Plan. Specifically, the proposed development has not demonstrated that it:
 - i. Builds on established patterns in terms of setbacks and tree preservation;
 - ii. Has sufficient sanitary capacity;
 - iii. Compatibly integrates with the surrounding area in terms of scale;
 - iv. Utilizes green infrastructure and sustainable design elements; and,
 - v. Retains and/or enhances the natural attributes of the site;
- Official Plan conformity in that the cumulative impact of the proposed modifications to the Community Institutional (I2, 457) Zone would result in an increased density which does not meet the intensification criteria listed above;
- The sanitary capacity assessment within the Functional Servicing Report demonstrates that there is insufficient capacity within the municipal sanitary network to support the proposed development and upgrades to the infrastructure will be required to support the proposed development; and,
- A total of 44 trees have been inventoried on the subject property and 35 trees have been proposed to be removed. The preservation of existing trees has not been taken into consideration within the design of the development. The proposed reduction of the minimum northerly side yard, reduction of the minimum rear yard, and elimination of the landscape strip requirement will result in the removal of existing trees along the northerly side yard and rear yard which provides a buffer for the surrounding dwellings.

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 83 property owners within 120 metres of the subject lands on January 18, 2023. Pursuant to the City’s Public Consultation Strategy Guidelines, the applicant held an in person Open House on March 23, 2023. A summary, with information regarding the attendance or comments received at the Open House was not provided by the applicant.

To date staff have received eight submissions from the public including two letters supporting the application. The concerns identified include management of stormwater, compatibility with neighbourhood character, density, lack of sidewalk connections along Fiddler’s Green Road, traffic generated by the proposed development, setbacks from Fiddler’s Green Road, rear yard setbacks, and protection of mature trees.

SUBJECT: Appeal of Zoning By-law Amendment Application ZAC-23-010 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 299, 307 and 325 Fiddler's Green Road, Ancaster (PED25000) (Ward 12)
Page 5 of 5

APPENDICES AND SCHEDULES ATTACHED

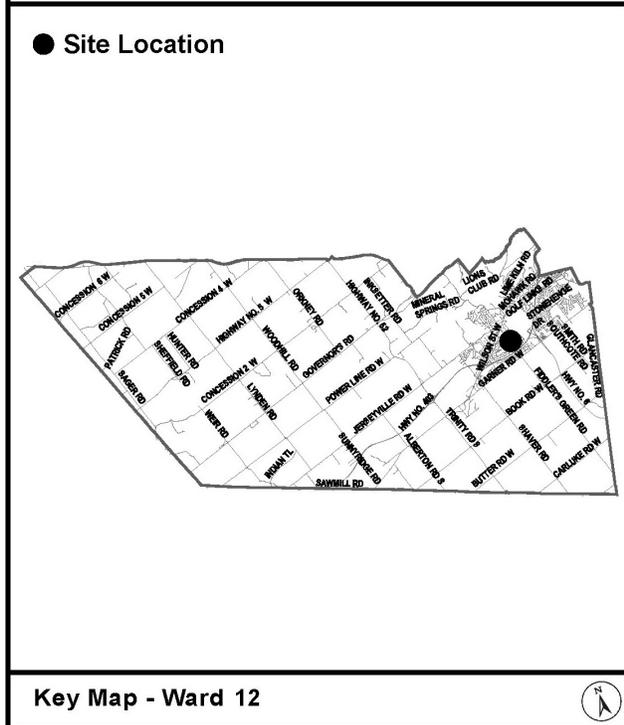
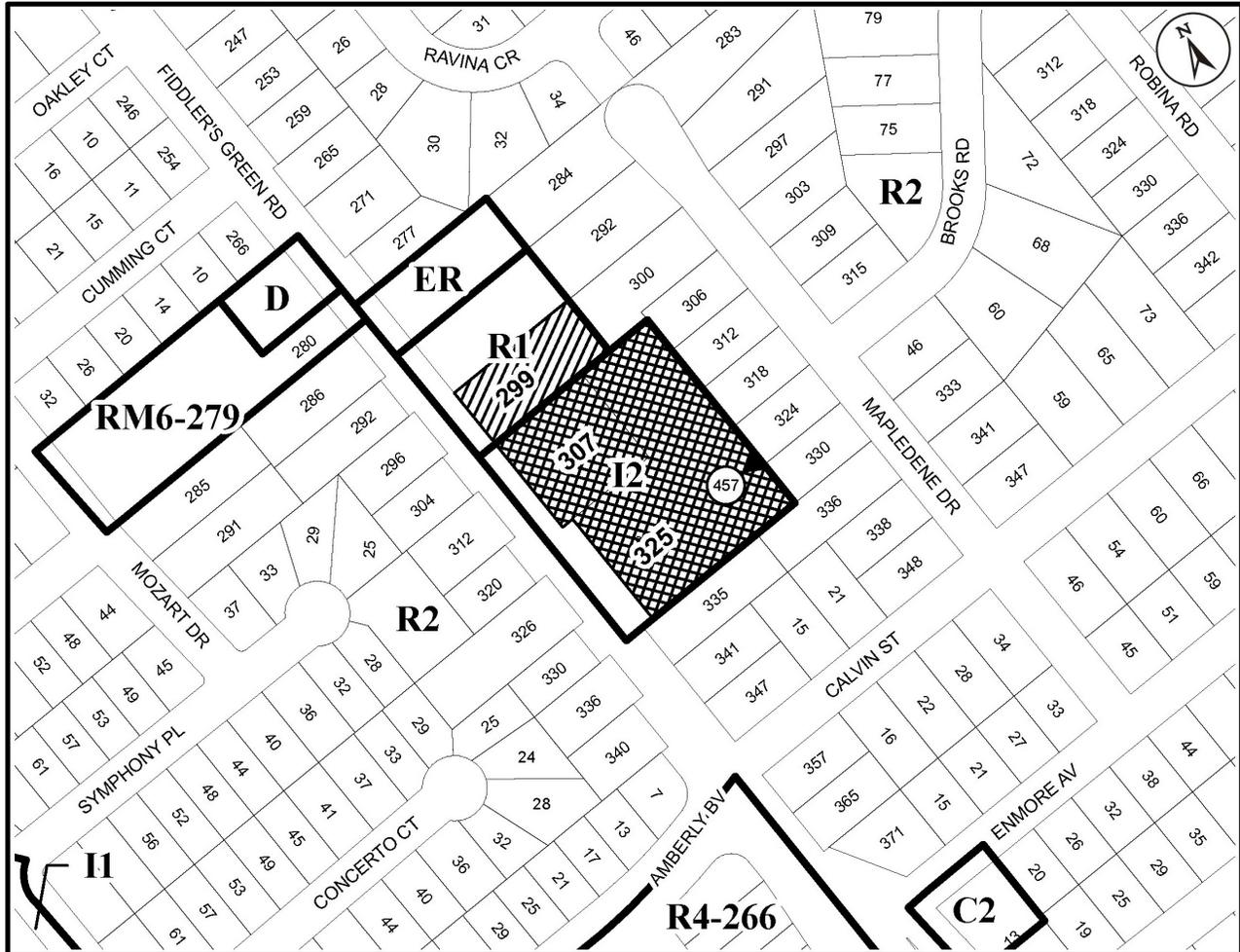
Appendix "A" to Report PED25000 – Location Map

Appendix "B" to Report PED25000 – Concept Plans and Building Elevations

Appendix "C" to Report PED25000 – Letter of Appeal

MM/mb

Appendix "A" to Report PED25000
Page 1 of 1



Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-23-010	Date: November 14, 2024	
Appendix "A"	Scale: N.T.S	Planner/Technician: MM/AL

Subject Property

299, 307 & 325 Fiddler's Green Road

- Proposed change in Zoning from the Low Density Residential "R1" Zone to the Community Institutional (I2, __) Zone
- Proposed change in Zoning from the Community Institutional (I2, 457) Zone to the Community Institutional (I2, __) Zone

Appendix "C" to Report PED25000
Page 1 of 9



BARRISTERS · SOLICITORS
232A Guelph Street, Suite 201, Halton Hills, Ontario L7G 4B1
Telephone: 905-873-0204 Facsimile: 905-873-4962
www.arnold-foster.com

Herbert T. Arnold
HTAesq@aol.com
Ann Clifford, Assistant (ext. 112)
aclifford@arnold-foster.com

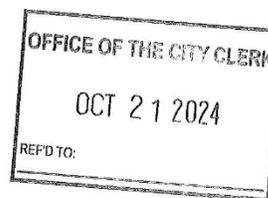
October 18, 2024

Via Same Day Courier

City of Hamilton
71 Main Street West, 1st Floor
Hamilton, Ontario
L8P 4Y5

Attention: City Clerk

Dear Sir /Madamne:



RE: **Notice of Appeal**
Appellant/Applicant: Highgate Holdings Inc.
299, 307 and 325 Fiddler's Green Road, Ancaster
City File(s): ZAC-23-010 Folder 2023: 100576 00 PLAN (1162989)

Please accept this letter and enclosures as a Notice of Appeal under s. 34(11) of the *Planning Act* on behalf of Highgate Holdings Inc. (the "Applicant"). The Applicant filed an application to amend the Zoning Bylaw on December 2, 2022, and the municipality deemed the application to be complete on January 18, 2023. The municipality has failed to make a decision on the application.

Please find the following enclosures:

1. Completed Appeal Form (A1)
2. Our firm cheque in the amount of \$1,100.00 payable to the Minister of Finance

Kindly acknowledge receipt of this Notice of Appeal.

Yours truly,

ARNOLD, FOSTER LLP

Herbert T. Arnold
HTA/ac
Enclosures

Appendix "C" to Report PED25000
Page 2 of 9



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)

Municipal/Approval Authority Date Stamp	Receipt Number (OLT Office Use Only)	Date Stamp – Appeal Received by OLT
	OLT Case Number (OLT Office Use Only)	

You may be able to submit your appeal online using our new e-file service if:

- the approval authority you are submitting your appeal to is registered on e-file; or
- you are appealing directly to the Ontario Land Tribunal

Please visit our [e-file page](#) to learn more.

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):			
HIGHGATE HOLDINGS INC. (Certificate of Incorporation attached)			
Email Address:			
christoph@mountainviewresidence.com			
Daytime Telephone Number:		Alternative Telephone Number:	
905-877-1800	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:
	222	Mountainview Road N.	
City/Town:	Province:	Country:	Postal Code:
Georgetown	Ontario	Canada	L7G 3R2

Appendix "C" to Report PED25000
Page 4 of 9

<input type="checkbox"/>	Appeal of <i>Development Charges, 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>	5
<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:

Retirement Home: 59 units

Municipal Reference Number(s):

File(s): ZAC-23-010 Folder 2023: 100576 00 PLAN (1162989)

List the reasons for your appeal:

Appellant/Applicant filed an Application to Amend the Zoning Bylaw on December 2, 2022.

The municipality deemed the Application to be complete on January 18, 2023.

Municipality has failed to make a decision.

Has a public meeting been held by the municipality? **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:

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

Appendix "C" to Report PED25000
Page 5 of 9

<input checked="" type="checkbox"/> 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:
As set out in the Planning Justification Report dated December 2022, the proposal is consistent with the PPS and in conformity to the Growth Plan and the Urban Hamilton Official Plan (UHOP). The proposal promotes efficient development and contributes to a range of housing options. The proposal prioritizes intensification, and provides seniors housing in proximity to existing transit, public service facilities, and other essential services. The proposed three (3) storey, 59-unit addition represents a reasonable and appropriate level of intensification and promotes compact, transit supportive and compatible development within the surrounding area. The proposal is a permitted use in the Neighbourhoods designation and conforms to the intensification policies of the Urban Hamilton Official Plan.

Oral/Written Submissions to Council
Did you make your opinions regarding this matter known to council?
<input type="checkbox"/> Oral submissions at a public meeting of council
<input type="checkbox"/> Written submissions to council
<input checked="" type="checkbox"/> Not applicable

Related Matters
Are there other appeals not yet filed with the Municipality?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there other matters related to this appeal? (For example: A consent application connected to a variance application).
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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:

**Appendix “C” to Report PED25000
Page 7 of 9**

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 [Section 4B Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

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

Appeal Specific Information

Development Permit Application File No:

Address or legal description of the subject property:

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 (www.escarpment.org))

Section 6 – Mining Claim and Conservation Matters

Appeal Specific Information

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 *Mining Act* appeals only.)

List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):

Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:

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:

Appendix "C" to Report PED25000
Page 8 of 9

--

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:

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 6 Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

Section 7 – Filing Fee
Required Fee

Please see the attached link to view the OLT Fee Chart.

 Total Fee Submitted: **\$ 1,100.00**

Payment Method	<input type="checkbox"/> Certified Cheque	<input type="checkbox"/> Money Order	<input checked="" type="checkbox"/> Lawyer's general or trust account cheque
	<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. **DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.**

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)
----------------------------------	---------------------------------------	-------------------

Highgate Holdings Inc.


 Christoph Summer, President

2023/10/17

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.

Appendix "C" to Report PED25000

Page 9 of 9

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 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 in addition 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: www.olt.gov.on.ca
Section 5	<p>For the Areas of: Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton</p> <p>File with: NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3rd Floor Georgetown, ON L7G 4B1 Phone: 905-877-5191 Fax: 905-873-7452 Website: www.escarpment.org Email: necgeorgetown@ontario.ca</p>	<p>For the Areas of: Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p>File with: NIAGARA ESCARPMENT COMMISSION 1450 7th Avenue Owen Sound, ON N4K 2Z1 Phone: 519-371-1001 Fax: 519-371-1009 Website: www.escarpment.org Email: necowensound@ontario.ca</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.



Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications (PED25019) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Johanna Howard (905) 546-2424, Ext. 1324
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

In accordance with the June 16, 2015, Planning Committee direction, this Report provides a status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision Applications relative to the statutory timeframe provisions of the *Planning Act* for non-decision appeals. In addition, this Report also includes a list and status of all Applications appealed to the Ontario Land Tribunal for non-decision.

INFORMATION

Staff were directed to report back to Planning Committee with a reporting tool that seeks to monitor Applications where the applicable statutory timeframes apply. This reporting tool would be used to track the status of all active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications.

This report has been presented to Planning Committee on a monthly basis, however, in January 2025, reporting of all active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications will move to a quarterly schedule. Staff will provide reports in January, April, August, and December 2025.

For the purposes of this Report, the status of active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications have been divided, relative to the statutory timeframe provisions of the *Planning Act*, which were in effect pursuant to statutory timeframes prescribed in *Bill 73*, *Bill 139*, and *Bill 108*.

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

SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications (PED24176) (City Wide) - Page 2 of 3

Applications Deemed Complete Prior to Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “A” to Report PED24176 is a table outlining the active applications received prior to December 12, 2017, sorted by Ward, from oldest application to newest. As of October 18, 2024, there were:

- 3 active Official Plan Amendment applications, all of which were submitted after July 1, 2016, and therefore subject to the 90 day extension to the statutory timeframe from 180 days to 270 days;
- 5 active Zoning By-law Amendment applications; and,
- 3 active Plan of Subdivision applications.

Within 60 to 90 days of September 17, 2024, all five development proposals have passed the applicable 120, 180 and 270 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “B” to Report PED24176 is a table outlining the active applications received after December 12, 2017, but before Royal Assent of Bill 108, sorted by Ward, from oldest application to newest. As of September 17, 2024, there was:

- 1 active Official Plan Amendment applications, all of which are subject to the 90 day extension to the statutory timeframe from 210 days to 300 days;
- 4 active Zoning By-law Amendment applications; and,
- 2 active Plan of Subdivision applications.

Within 60 to 90 days of September 17, 2024, all four development proposals have passed the applicable 150, 180 or 300 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 108 (September 3, 2019)

Attached as Appendix “C” to Report PED24176 is a table outlining the active applications received after September 3, 2019, and subject to the new statutory timeframes, sorted by Ward, from oldest application to newest. As of September 17, 2024 there were:

- 12 active Official Plan Amendment applications;
- 29 active Zoning By-law Amendment applications; and,

SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications (PED24176) (City Wide) - Page 3 of 3

- 18 active Plan of Subdivision applications.

As of September 17, 2024, two development proposals are approaching the 90 or 120 day statutory timeframe and will be eligible for appeal. There are 33 development proposals that have passed the 90 or 120 day statutory timeframe.

Planning Division Active Files

Combined to reflect property addresses, there are 44 active development proposals. Seven proposals are 2024 files (16%), nine proposals are 2023 files (20.5%), nine proposals are 2022 files (20.5%), and 19 proposals are pre 2022 files (43%).

Current Non-Decision Appeals to the Ontario Land Tribunal

At the February 2, 2021, Planning Committee meeting, Planning Committee requested that information be reported relating to development applications that have been appealed for non-decision to the Ontario Land Tribunal. Attached as Appendix "D" to Report PED24176 is a table outlining development applications, along with the applicant/agent, which have been appealed for non-decision to the Ontario Land Tribunal. There are currently 19 active appeals for non-decision of which three are Zoning By-law Amendment applications, three are Plan of Subdivision applications, 10 are combined Official Plan Amendment and Zoning By-law Amendment applications, and three are combined Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications. Third party appeals are not included in this information as Council has made a decision on the application.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24176 - List of Active Development Applications (prior to December 12, 2017)

Appendix "B" to Report PED24176 - List of Active Development Applications (after December 12, 2017, but before September 3, 2019)

Appendix "C" to Report PED24176- List of Active Development Applications (after September 3, 2019)

Appendix "D" to Report PED24176 - *Planning Act* Applications Currently Appealed for Non-Decision to the Ontario Land Tribunal

JH:mb

Appendix "A" to Report PED25019
Page 1 of 2

Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective December 3, 2024)

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of Dec. 3, 2024
Ward 7									
UHOPA-17-31 ZAC-17-071	1625 - 1655 Upper James Street, Hamilton	27-Sep-17	n/a	02-Oct-17	25-Jan-18	n/a	24-Jun-18	MB1 Development Consulting Inc.	2682
Ward 9									
UHOPA-16-26 ZAC-16-065 25T-201611	478 and 490 First Road West, Stoney Creek	12-Oct-16	n/a	02-Nov-16	09-Feb-17	10-Apr-17	09-Jul-17	T. Johns Consultants Inc.	3002
UHOPA-16-27 ZAC-16-066 25T-201612	464 First Road West, Stoney Creek	12-Oct-16	n/a	02-Nov-16	09-Feb-17	n/a	09-Jul-17	T. Johns Consultants Inc.	3002
Ward 10									
ZAC-15-040	9 Glencrest Avenue, Stoney Creek	02-Jul-15	n/a	17-Jul-15	30-Oct-15	n/a	n/a	WEBB Planning Consultants Inc.	3470

Appendix “A” to Report PED25019
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Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective December 3, 2024)

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of Dec. 3, 2024
Ward 12									
ZAC-17-062 25T-201709	45 Secinaro Avenue, Ancaster	28-Jul-17	n/a	01-Aug-17	25-Nov-17	n/a	n/a	T. Johns Consultants Inc.	2713

Active Development Applications

- When an Application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 120, 180 and 270 day timeframe commences on the date the new materials were submitted. In all other situations, the 120, 180 and 270 day timeframe commences the day the Application was received.

* In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment Applications by 90 days from 180 days to 270 days. However, Applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 180 statutory timeframe.

Appendix “B” to Report PED25019
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Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 3, 2024)

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/Agent	Days since Received and/or Deemed Complete as of Dec. 3, 2024
Ward 2									
ZAR-19-008	124 Walnut Street South, Hamilton	21-Dec-18	n/a	18-Jan-19	20-May-19	n/a	n/a	IBI Group	2202
Ward 11									
UHOPA-18-016* ZAC-18-040 25T-2018007	9511 Twenty Road West, Glanbrook	10-Jul-18	n/a	15-Aug-18	n/a	06-Jan-19	06-May-19*	Corbett Land Strategies	2366
Ward 12									
ZAC-18-048 25T-2018009	387, 397, 405 and 409 Hamilton Drive, Ancaster	09-Sep-18	n/a	28-Sep-18	06-Feb-19	08-Mar-19	n/a	Fothergill Planning & Development Inc.	2305
Ward 14									
ZAC-19-011	1193 Old Mohawk Road, Ancaster	12-Dec-18	n/a	10-Jan-19	11-May-19	n/a	n/a	Urban Solutions Planning & Land Development	2211

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 3, 2024)**

Active Development Applications

1. When an Application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 150, 180, 210 and 300 day timeframe commences on the date the new materials were submitted. In all other situations, the 150, 180, 210 and 300 day timeframe commences the day the Application was received.

- * In accordance with Section 34 (11.0.0.0.1), of the *Planning Act*, the approval period for Zoning By-law Amendment Applications submitted concurrently with an Official Plan Amendment, will be extended to 210 days.

- * In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment Applications by 90 days from 210 days to 300 days. However, Applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 210 statutory timeframe.

Appendix “C” to Report PED25019
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Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)

File	Address	Date Received	Date¹ Deemed Incomplete	Date¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 1								
UHOPA-17-036 ZAC-17-036	644 Main Street West, Hamilton (in abeyance)	01-Nov-17	n/a	23-Nov-17	n/a	01-Mar-18	Urban Solutions Planning & Land Development	2546
UHOPA-24-11 ZAC-24-034	1630 Main Street West and 69 Sanders Boulevard, Hamilton	19-Nov-24	n/a	2-Dec-24	n/a	19-Mar-25	Landwise	14
UHOPA-24-012	804 King Street West, Hamilton	22-Nov-24	n/a	27-Nov-24	n/a	22-Mar-25	Gateway Development Group Inc.	11
Ward 2								
UHOPA-23-012 ZAC-23-027	175 John Street North, Hamilton	19-Dec-22	n/a	30-Jan-23	n/a	18-Apr-23	Philip Alaimo	715
ZAC-23-019	117 Forest Avenue, Hamilton	22-Dec-23	n/a	17-Jan-23	23-Mar-23	n/a	Urban Solutions Planning & Land Development	711
ZAC-23-029 25T-202303	215 King Street West, Hamilton	22-Dec-23	n/a	2-Feb-23	n/a	22-Apr-23	Arcadis IBI Group	711

Appendix "C" to Report PED25019

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**Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 3								
ZAC-22-049	338 Cumberland Avenue, Hamilton	20-July-22	n/a	20-July-22	18-Oct-22	n/a	Urban Solutions Planning & Land Development	868
25T-202403	386 Wilcox Street, Hamilton	31-May-24	n/a	6-June-24	n/a	28-Sep-24	MHBC Planning Ltd.	188
Ward 5								
UHOPA-23-013 ZAC-23-028 25T-85033R	117 Nashville Circle, Hamilton	22-Dec-23	n/a	22-Feb-23	n/a	22-Apr-23	Bousfields Inc.	711
Ward 6								
ZAC-23-009	1280 Rymal Road East, Hamilton	15-Dec-22	n/a	6-Jan-23	15-Mar-23	n/a	Fothergill Planning & Development Inc.	720
ZAC-24-027 25T-202406	790 Rymal Road East, Hamilton	15-Oct-24	n/a	27-Oct-24	n/a	12-Feb-25	DiCenzo Construction Company Ltd.	49

**Appendix “C” to Report PED25019
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**Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)**

File	Address	Date Received	Date¹ Deemed Incomplete	Date¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 7								
ZAC-22-016	48 Miles Road, Hamilton	25-Jan-22	n/a	10-Feb-22	25-Apr-22	n/a	IBI Group	1027
ZAC-24-033	525 Stone Church Road East, Hamilton	19-Nov-24	n/a	22-Nov-24	17-Feb-25	n/a	Victoria Park Community Homes	14
Ward 8								
ZAC-21-029 25T-202108	204, 212, 220, 226 Rymal Road West, Hamilton	05-July-21	n/a	09-Aug-21	n/a	02-Nov-21	T. Johns Consulting Group	1241
ZAC-22-024 25T-202204	1456-1460 Upper James Street, Hamilton	28-Mar-22	n/a	08-Apr-22	n/a	26-Jul-22	A.J. Clarke & Associates	982
ZAC-24-020	1494 Upper Wellington Street, Hamilton	14-June-24	n/a	14-June-24	12-Sep-24	n/a	MHBC Planning Ltd.	174

**Appendix “C” to Report PED25019
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**Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)**

File	Address	Date Received	Date¹ Deemed Incomplete	Date¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 9								
ZAC-22-001	2153, 2155, and 2157 Rymal Road East, Stoney Creek	4-Nov-21	n/a	n/a	2-Feb-22	n/a	Weston Consulting	1125
ZAC-22-029 25T-202206	481 First Road West, Stoney Creek	22-Apr-22	n/a	n/a	n/a	24-Jul-22	Kuok Kei Hong	958
UHOPA-24-008 ZAC-24-026	1809 – 1843 Rymal Rd E. Stoney Creek	21-Aug-24	n/a	27-Aug-24	n/a	19-Dec-24	MHBC Planning LTD.	104
25T-202405	82 Carlson Street and 238, 240 & 242 Highland Road West Stoney Creek	18-Sept-24	n/a	18-Sept-24	n/a	16-Jan-25	Losani Homes	76

Appendix “C” to Report PED25019
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Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 10								
UHOPA-22-020 ZAC-22-046 25T-202208	220 McNeilly Road, Hamilton	8-July-22	n/a	22-July-22	n/a	5-Nov-22	T. Johns Consulting Group	880
UHOPA-24-009 ZAC-24-030 25T-202407	228 McNeilly Road and 1069 Hwy 8, Stoney Creek	11-Nov-24	n/a	18-Nov-24	n/a	24-Mar-25	MHBC Planning Ltd.	9
Ward 11								
UHOPA-22-014 ZAC-22-027 25T-202205	2876 Upper James Street, Glanbrook	05-Apr-22	n/a	05-Apr-22	n/a	03-Aug-22	Rice Group	974
ZAC-22-055	2640 Binbrook Road, Glanbrook	16-Aug-22	n/a	18-Aug-22	14-Nov-22	n/a	IBI Group	841
UHOPA-24-010 ZAC-24-032	3530 Upper James Street Hamilton	12-Nov-24	n/a	19-Nov-24	n/a	12-Mar-25	2784320 Ontario Inc.	21
Ward 12								
25T-202102	370 Garner Road East, Ancaster	18-Dec-20	n/a	22-Jan-21	n/a	17-Apr-21	A.J. Clarke & Associates Ltd.	1474

**Appendix “C” to Report PED25019
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**Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)**

File	Address	Date Received	Date¹ Deemed Incomplete	Date¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 12 (Continued)								
25T-202105	700 Garner Road East, Ancaster	18-Jan-21	n/a	04-Feb-21	n/a	18-May-21	MHBC Planning Ltd.	1443
UHOPA-21-022 ZAC-21-047	559 Garner Road East, Ancaster	15-Oct-21	n/a	20-Oct-21	n/a	12-Feb-22	Urban Solutions Planning and Land Development	1145
ZAC-23-010	299 Fiddlers Green Road, Ancaster	19-Dec-22	n/a	6-Jan-23	19-Mar-23	n/a	Wellings Planning Consultants	716
Ward 13								
25T-202401	1524 Kirkwall Road, Flamborough	26-Jan-24	n/a	9-Feb-24	n/a	25-May 24	Carson Reid Homes Ltd.	314
RHOPA-24-003 ZAC-24-009	1278 Old Highway 8, Flamborough	27-Mar-24	n/a	27-Mar-24	n/a	25-Jul-24	A.J. Clarke & Associates	254

Appendix “C” to Report PED25019
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Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 3, 2024)

File	Address	Date Received	Date¹ Deemed Incomplete	Date¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/Agent	Days Since Received and/or Deemed Complete as of Dec 3, 2024
Ward 13 (continued)								
ZAC-24-031	94 Midsummers Lane, Flamborough	12-Nov-24	n/a	14-Nov-24	12-Mar-25		Pandora Development Inc.	21
Ward 15								
ZAC-20-006	518 Dundas Street East, Dundas	20-Dec-19	n/a	22-Jan-20	n/a	21-Apr-20	Urban Solutions Planning and Land Development	1808
UHOPA-21-003 ZAC-21-007 25T-202103	562 Dundas Street East, Flamborough	23-Dec-20	n/a	08-Feb-21	n/a	22-Apr-21	Metropolitan Consulting Inc.	1442
25T-201507R	74 Parkside Drive, Flamborough	11-Aug-22	n/a	18-Aug-22	n/a	17-Oct-22	IBI Group	846

Active Development Applications

- When an Application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 90 and 120 day timeframe commences on the date the new materials were submitted. In all other situations, the 90 and 120 day timeframe commences the day the Application was received.

Appendix "D" to Report PED25019

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**Planning Act Applications
Currently Appealed for Non-Decision to the
Ontario Land Tribunal (Effective December 3, 2024)**

File	Address	Applicant /Agent	Date Appeal Received
Ward 1			
*ZAC-22-012	200 Market Street, 55 Queen Street North, Hamilton	GSP Group	January 2024
UHOPA-20-027 ZAC-20-042	1629-1655 Main Street West, Hamilton	GSP Group	February 2024
UHOPA-23-008 ZAC-23-020	17 Ewen Road, Hamilton	GSP Group	February 2024
Ward 2			
*UHOPA-21-009 ZAC-21-021	117 Jackson Street East, Hamilton	Bousfields Inc.	September 2023
Ward 7			
UHOPA-23-001 ZAC-23-001	499 Mohawk Road East, Hamilton	Urban Solutions Planning & Land Development Consultants Inc.	August 2023

Appendix "D" to Report PED25019

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**Planning Act Applications
Currently Appealed for Non-Decision to the
Ontario Land Tribunal (Effective December 3, 2024)**

File	Address	Applicant /Agent	Date Appeal Received
Ward 8			
UHOPA-20-017 ZAC-20-029 25T-202003	393 Rymal Road West, Hamilton	GSP Group Inc.	June 2024
Ward 9			
UHOPA-23-05 ZAC-23-006	1065 Paramount Drive, Stoney Creek	Arcadis IBI Group	January 2024
Ward 10			
UHOPA-21-18 ZAC-21-039	1400 South Service Road, Stoney Creek	MHBC Planning Ltd.	November 2023
Ward 11			
UHOPA-22-008 ZAC-22-017 25T-202202	3054 Homestead Drive, Hamilton	Urban Solutions Planning & Land Development	April 2024
25T-202203	9451 Dickenson Road West, Glanbrook	Korsiak Urban Planning	July 2024
UHOP-22-014 ZAC-22-027 25T-202204	2876 Upper James Street, Hamilton	RGC Upper James Hamilton Inc. Pure Upper James Street Holdings	November 2024

Appendix "D" to Report PED25019

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**Planning Act Applications
Currently Appealed for Non-Decision to the
Ontario Land Tribunal (Effective December 3, 2024)**

File	Address	Applicant /Agent	Date Appeal Received
Ward 12			
25T-201806	140 Garner Road, Ancaster	Urban Solutions Planning and Land Development Consultants Inc.	February 2022
UHOPA-23-010 ZAC-23-025	509 Southcote Road, Ancaster	Urban Solutions Planning and Land Development Consultants Inc.	June 2023
ZAC-21-027	140 and 164 Sulphur Springs Road, Ancaster	Fothergill Planning & Development Inc.	July 2023
UHOPA-23-017 ZAC-23-041	1225 Old Golf Links Road, Ancaster	A.J. Clarke & Associates Ltd	December 2023
UHOPA-20-013 ZAC-20-017	210 Calvin Street, Ancaster	SGL Planning & Design Inc.	May 2024
25T-202102	370, 378, 412 & 436 Garner Road East, Ancaster	First Gulf Corporation	November 2024
Ward 15			
ZAC-13-039	111 Silverwood Drive (111 Parkside Drive, Flamborough (Waterdown))	Metropolitan Consulting Inc.	October 2017

**Planning Act Applications
Currently Appealed for Non-Decision to the
Ontario Land Tribunal (Effective December 3, 2024)**

File	Address	Applicant /Agent	Date Appeal Received
Ward 1 (continued)			
UHOPA-19-012 ZAC-21-044 25T-2019005	30, 36 and 42 Dundas Street East, 50 Horseshoe Crescent, and 522 Highway 6, Flamborough	MHBC Planning	August 2021

* The OLT Hearing has taken place and awaiting a decision to be issued.



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
 Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 9)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	Michael Fiorino (905) 546-2424 Ext. 4424
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Draft Plan of Subdivision Application 25T-202404, by Weston Consulting (c/o Kayly Robbins, on behalf of Komil Jasdev Bhalla and Jasdev Singh Bhalla and 1900 Holdco Inc. (c/o Mackenzie Paterson), Owner**, on lands located at 1898 and 1900 Rymal Road East, as shown on Appendix “A” attached to Report PED25020, be **APPROVED**, in accordance with By-law No. 07-323 being the delegation of the City of Hamilton’s Assigned Authority Under the *Planning Act* for the Approval of Subdivisions and Condominiums, on the following basis:

- (a) That this approval apply to the Draft Plan of Subdivision “Part of Lot 7 – Block 5 Concession 1” certified by N. P. Muth, O.L.S., dated November 22, 2024, consisting of one residential block (Block 1) to facilitate the development of 19 street townhouse dwellings with 38 parking spaces including four visitor parking spaces, as shown on the Draft Plan of Subdivision on Appendix “B” attached to Report PED25020;
- (b) That the Owner enter into a Standard form Subdivision Agreement as approved by City Council and with the Special Conditions as shown on Appendix “C” attached to Report PED25020;

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

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

SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 2 of 9

- (c) That the Special Conditions of Draft Plan of Subdivision Approval, 25T-202404, as shown in Appendix “C” attached to Report PED25020, be received and endorsed by City Council;
- (d) In accordance with the City’s Comprehensive Development Guidelines and Financial Policies Manual there will be no City of Hamilton cost sharing for this subdivision; and,
- (e) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the issuance of each building permit, all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

EXECUTIVE SUMMARY

The subject lands are municipally known as 1898 and 1900 Rymal Road East. The applicant, Weston Consulting, c/o Kayly Robbins on behalf of Komil Jasdev Bhalla and Jasdev Singh Bhalla and 1900 Holdco Inc., has applied for a Draft Plan of Subdivision to establish one block (Block 1), as shown on the Draft Plan of Subdivision in Appendix “B” attached to Report PED25020, to facilitate the development of eight, three storey townhouse dwellings and 11 two storey townhouse dwellings on a private condominium road with 38 parking spaces and four visitor parking spaces inclusive of one barrier free parking space through a future Part Lot Control application and a Common Element Condominium application.

The proposed Draft Plan of Subdivision has merit and can be supported for the following reasons:

- It is consistent with the Provincial Planning Statement (2024);
- It complies with the Urban Hamilton Official Plan, the Rymal Road Secondary Plan and site specific Zoning By-law No. 23-186; and,
- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, increasing the supply of housing units, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 3 of 9

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: *Bill 23* amended the *Planning Act* to remove the mandatory requirement for a public meeting to consider a proposed Draft Plan of Subdivision.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Owner:	Komil Jasdev Bhalla and Jasdev Singh Bhalla and 1900 Holdco Inc. (c/o Mackenzie Paterson)
Applicant:	Weston Consulting c/o Kayly Robbins
File Number:	25T-202404.
Type of Applications:	Draft Plan of Subdivision.
Proposal:	<p>The proposed Draft Plan of Subdivision consists of one residential block (Block 1), as shown on the Draft Plan of Subdivision in Appendix “B” attached to Report PED25020.</p> <p>The effect of this application is to facilitate the development of a total of eight, three storey townhouse dwellings and 11 two storey townhouse dwellings on a private condominium road with 38 parking spaces and four visitor parking spaces inclusive of one barrier free parking space.</p> <p>Access to the subject lands will be from Rymal Road East.</p>
Property Details	
Municipal Address:	1898 and 1900 Rymal Road East.
Lot Area:	0.45 hectares.
Servicing:	Existing municipal services.

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

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

SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 4 of 9

Existing Use:	1898 Rymal Road East is occupied by a single detached dwelling. 1900 Rymal Road East is occupied by a single detached dwelling.
Documents	
Provincial Planning Statement:	The proposal is consistent with the Provincial Planning Statement (2024).
Official Plan Existing:	“Secondary Corridor” on Schedule E – Urban Structure and “Neighbourhoods” on Schedule E-1 – Land Use Designations.
Secondary Plan Existing:	“Low Density Residential 2h” on Map B.5.2-1 – Rymal Road Secondary Plan – Land Use Plan.
Zoning Existing:	Residential Multiple – Holding “H-RM2-328” Zone, Modified.
Processing Details	
Received:	August 16, 2024
Deemed Complete:	August 28, 2024
Notice of Complete Application:	Sent to 145 property owners within 120 metres of the subject property on September 5, 2024.
Public Notice Sign:	Posted on September 13, 2024, and updated with Public Meeting date on December 17, 2024.
Notice of Public Meeting:	Sent to 145 property owners within 120 metres of the subject property on January 3, 2025. The Notice for the Public Meeting was published in the Hamilton Spectator on January 3, 2025.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix “F” attached to Report PED25020.
Public Consultation:	In addition to the requirements of the <i>Planning Act</i> , the applicants held an Open House relating to a previous Zoning By-law Amendment application ZAC-23-036 at Valley Park Community Centre (970 Paramount Drive, Stoney Creek), by Weston Consulting on Thursday, April 27, 2023. As the application implements the site specific zoning approved by City Council on October 11, 2023, further public

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SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 5 of 9

Public Consultation: (continued)	consultation beyond giving notice of complete application prior to the submission of the Draft Plan of Subdivision application did not occur.
Public Comments:	No comments were received.
Processing Time:	156 days.

Existing Land Use and Zoning

	Existing Land Use	Existing Zoning
Subject Lands:	Single detached dwellings.	Residential Multiple – Holding “H-RM2-328” Zone, Modified.
Surrounding Lands:		
North	Single detached dwellings; and Eramosa Karst Conservation Area.	Mixed Use Medium Density (C5, 589) Zone and Neighbourhood Development “ND” Zone.
South	Single detached dwellings.	Residential “R4-173(B)” Zone, Modified.
East	Single detached dwellings.	Residential “R4-173(A)” Zone, Modified.
West	Residential - Townhouses.	Neighbourhood Commercial (C1, 205) Zone.

Previous Applications

Zoning By-law Amendment Application ZAC-23-036

A Zoning By-law Amendment application for a change in zoning from the General Agricultural “A1” Zone to the Residential Multiple – Holding “H-RM2-328” Zone, Modified, to permit the development of eight, three storey townhouse dwellings and 11, two storey townhouse dwellings including 38 parking spaces and four visitor parking spaces inclusive of one barrier free was approved by Council on October 11, 2023 (By-law No. 23-186).

SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 6 of 9

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Statement (2024)

A full review of the applicable Provincial Policy Statement (2024) policies is provided in Appendix “E” attached to Report PED25020.

The proposal supports the development of healthy, liveable, and complete communities establishing and implementing the targets for housing while intensifying underutilized lands for residential redevelopment. The subject lands are located on Rymal Road East which is identified as a “Secondary Corridor” on Schedule E – Urban Structure of the Urban Hamilton Official Plan which is intended for higher order transit. The proposal can be supported as it is a compatible form of intensification. In addition to the proposed potential rapid transit route, Hamilton Street Railway operates bus route 44 which is located along Rymal Road East. An elementary school is located within the surrounding neighbourhood and a secondary school is located west of the subject lands at the intersection of Rymal Road East and Dakota Boulevard.

Based on the foregoing, the proposal is consistent with the Provincial Planning Statement (2024).

Urban Hamilton Official Plan and Rymal Road Secondary Plan

The subject lands are identified as “Secondary Corridor” on Schedule E – Urban Structure and designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan. The subject lands are further designated “Low Density Residential 2h” in the Rymal Road Secondary Plan. A full policy analysis of the applicable Urban Hamilton Official Plan policies is provided in Appendix “E” attached to Report PED25020.

The Draft Plan of Subdivision application will implement the approved Zoning By-law Amendment (By-law No. 23-186) and permit the further subdivision of the lands through a future Part Lot Control application to create freehold street townhouse units.

The proposed redevelopment of the subject lands for 19 townhouse dwellings meets the intent of the policies of the Urban Hamilton Official Plan and more specifically the Rymal Road Secondary Plan. The proposed use is considered appropriate development as it is compatible with and respects the existing surrounding built form which includes two and three storey townhouses and one and two storey single detached dwellings. The proposed townhouses will appear as a continuation of the existing townhouse development to the west, with similar height and setbacks to Rymal Road East and will

SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 7 of 9

represent a compact form with the orientation of the massing along Rymal Road East which enhances the streetscape.

The proposed Draft Plan of Subdivision will implement the proposal which introduces a low-rise residential development with a density of 42 units per hectare complying with the density of the “Low Density Residential 2h” designation and is consistent with the surrounding area in terms of use, density, height and built form. The proposed elevations for the development are compatible with the surrounding area and assist in enhancing architectural variation in the neighbourhood.

Detailed design information will be required as part of a future Site Plan Control application for the subject lands. Through amending By-law No. 23-186, Holding provisions for a Transportation Impact Study, revised Tree Protection Plan, and a Watermain Hydraulic Analysis were included and remain in effect.

Based on the foregoing, the proposal complies with the Urban Hamilton Official Plan and Rymal Road Secondary Plan.

Glanbrook Zoning By-law No. 464

The subject lands are zoned Residential Multiple – Holding “H-RM2-328” Zone, Modified, which permits the development proposal of eight, three storey townhouse dwellings and 11, two storey townhouse dwellings including 38 parking spaces and four visitor parking spaces inclusive of one barrier free space, subject to the removal Holding Provisions for a Transportation Impact Study, Watermain Hydraulic Analysis, and a Tree Protection Plan. The Holding Provisions will remain in place with the approval of the Draft Plan of Subdivision, a detailed review will occur through the future Site Plan Control application and no development can occur until the applicant satisfies the holding provision and the proposed conditions of draft approval.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Planning Statement (2024);
 - (ii) It complies with the policies of the Urban Hamilton Official Plan and the Rymal Road Secondary Plan; and,
 - (iii) It is compatible with existing land uses in the immediate area and represents good planning by, among other things, increasing the supply of housing units, enhances the pedestrian environment along Rymal Road

SUBJECT: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 8 of 9

East, makes efficient use of existing infrastructure within the urban boundary, and supports public transit.

2. Draft Plan of Subdivision

Staff reviewed the application against criteria set out in Sub-section 51(24) of the *Planning Act*, to assess the appropriateness of the proposed subdivision, staff advise that:

- (a) The proposal is consistent with the Provincial Planning Statement (2024);
- (b) The proposal represents a logical and timely extension of existing development and services and is in the public interest;
- (c) It complies with the applicable policies of the Urban Hamilton Official Plan and the Rymal Road Secondary Plan;
- (d) The land is suitable for the purposes for which it is to be subdivided;
- (e) The proposed subdivision will be adequately serviced and can connect with the current road system;
- (f) The dimensions and shape of the lots and blocks are appropriate;
- (g) The proposed restrictions, set out in the Special Conditions of draft plan approval in Appendix "C" attached to Report PED25020 and in the Standard Form Subdivision Agreement, are appropriate;
- (h) The subject lands can be appropriately used for the purposes for which it is to be subdivided and will not impact natural heritage features, and flood control will be addressed through stormwater management plans that will be required as standard conditions of draft plan approval;
- (i) Adequate utility and municipal services will be available, the particulars of which will be determined as part of the conditions of draft plan approval and the Subdivision Agreement;
- (j) Adequate school sites are available, the particulars of which were determined as part of the preparation and consultation through the development of the Rymal Road Secondary 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: Application for a Draft Plan of Subdivision for Lands Located at 1898 and 1900 Rymal Road East, Glanbrook (PED25020) (Ward 5) - Page 9 of 9

- (k) Public land has been conveyed to create road rights-of-way, the particulars of which determined as part of the Standard Subdivision Agreement and final registration of the Plan of Subdivision;
- (l) The proposed subdivision optimizes the available supply, and the proposed development will implement an efficient use of the land; and,
- (m) The proposed development of the subject land is interrelated with site plan control matters that include further review of landscaping, lighting, waste collection and urban design and must be in accordance with the Residential Multiple – Holding “H-RM2-328” Zone, Modified.

Therefore, staff are supportive of the proposed Draft Plan of Subdivision and recommend its approval.

ALTERNATIVES FOR CONSIDERATION

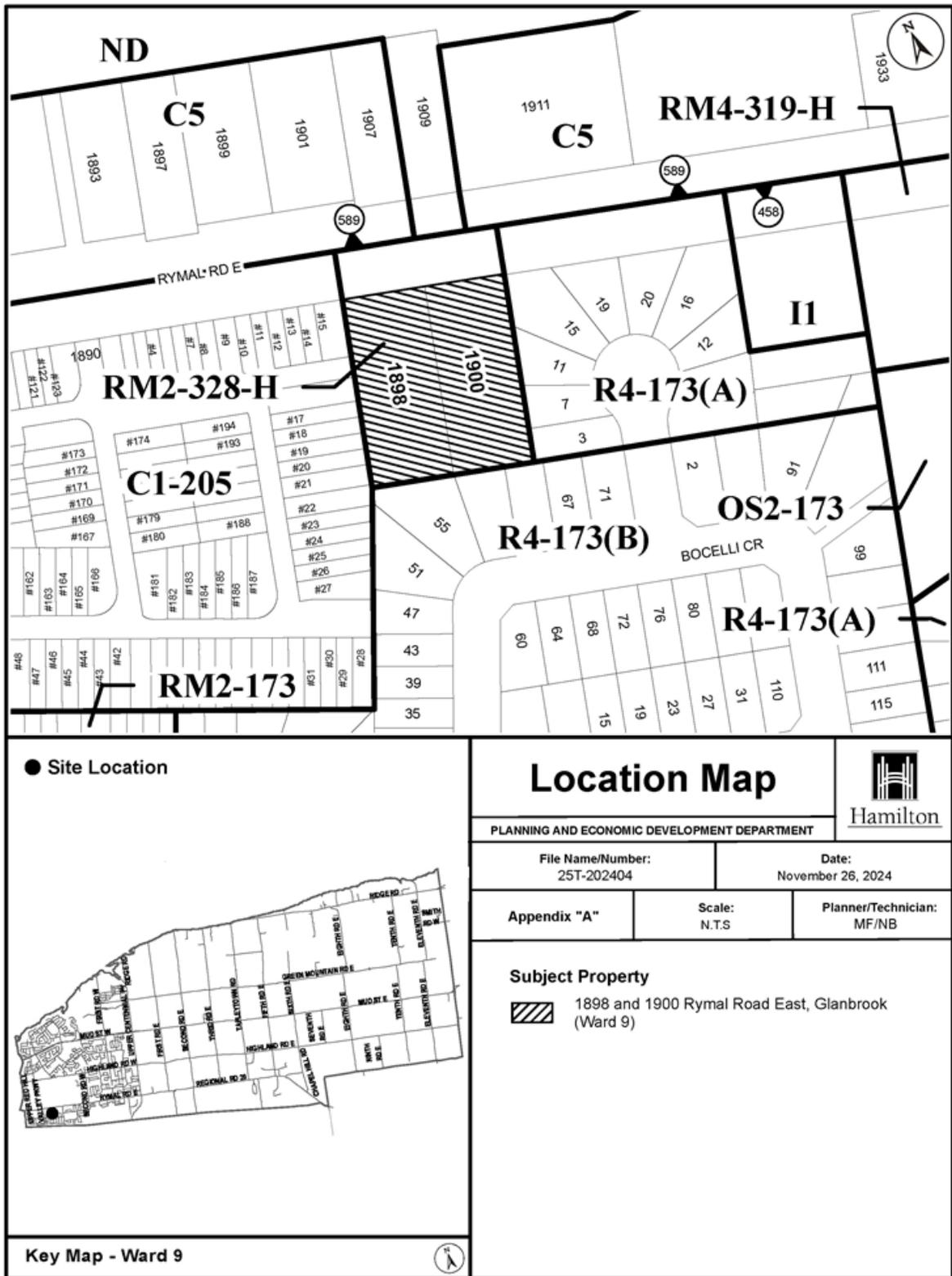
Should the proposed Draft Plan of Subdivision not be approved, townhouses would be permitted fronting on a private road as per the Residential Multiple – Holding “H-RM2-328” Zone, Modified and subject to the removal of the applicable Holding Provisions, but the lands would not be permitted to be further subdivided through Part Lot Control, limiting the form of tenure permitted through future Draft Plan of Condominium applications.

APPENDICES AND SCHEDULES ATTACHED

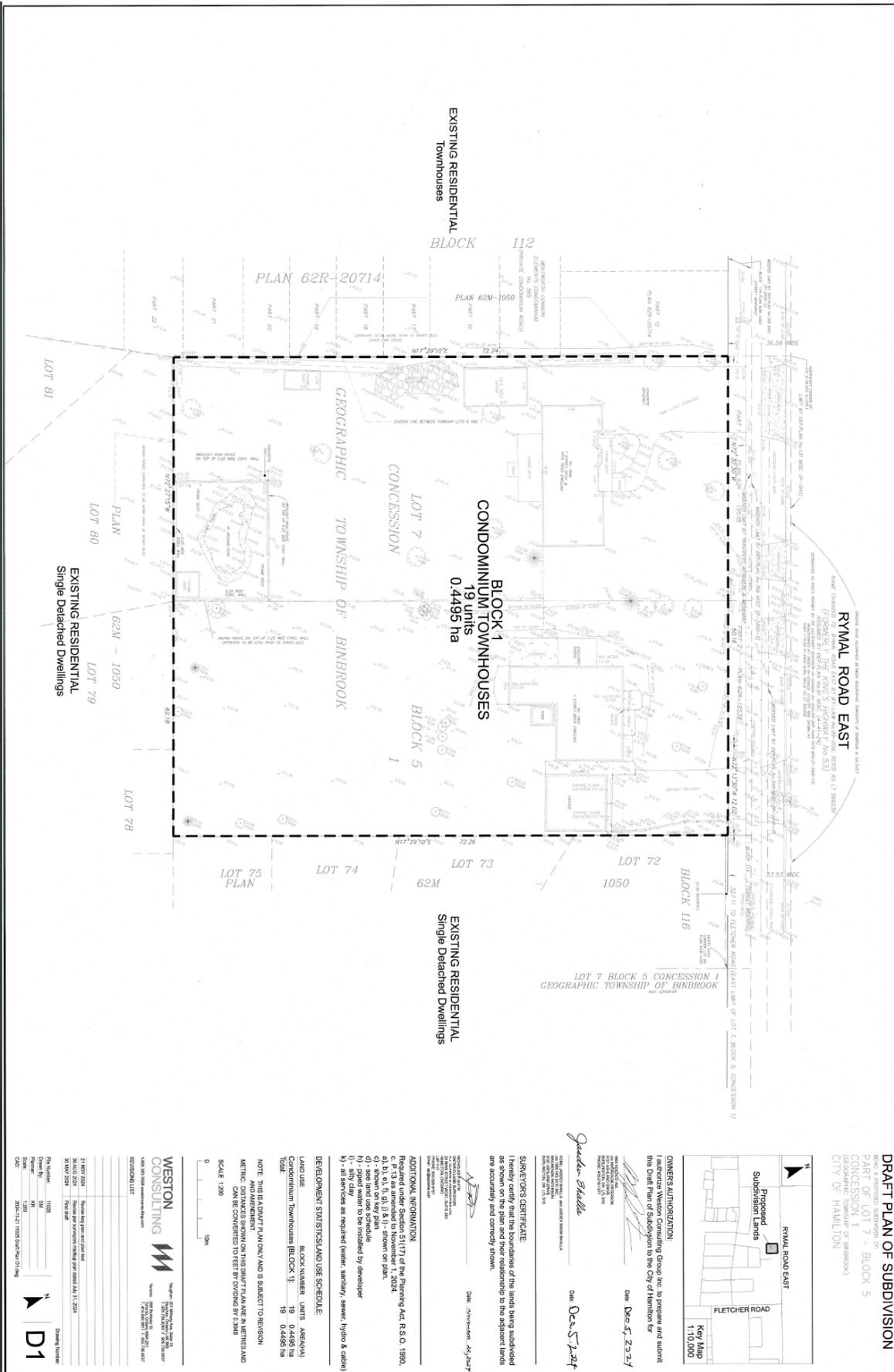
Appendix “A” to Report PED25020 – Location Map
 Appendix “B” to Report PED25020 – Proposed Draft Plan of Subdivision
 Appendix “C” to Report PED25020 – Draft Plan of Subdivision Special Conditions
 Appendix “D” to Report PED25020 – Concept Plan
 Appendix “E” to Report PED25020 – Policy Review
 Appendix “F” to Report PED25020 – Staff and Agency Comments

MF/mb

Appendix "A" to Report PED25020
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Appendix "B" to Report PED25020
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DRAFT PLAN OF SUBDIVISION

PART OF LOT 7 - BLOCK 5
CONCESSION 1
GEOGRAPHIC TOWNSHIP OF BINBROOK
CITY OF HAMILTON



OWNER'S AUTHORIZATION:

I authorize Weston Consulting Group Inc. to prepare and submit this Draft Plan of Subdivision to the City of Hamilton for

Date: Dec 5, 2021

Quade & Stalla

Date: Dec 5, 2021

SURVEYOR'S CERTIFICATE:
I hereby certify that the boundaries of the lands being subdivided as shown on the plan and their relationship to the adjacent lands are accurately and correctly shown.

Date: December 25, 2021

[Signature]

ADDITIONAL INFORMATION:

- Required under Section 51(17) of the Planning Act, R.S.O. 1990, c. P.13, s.18, (1), (1.1), (1.2) - shown on plan
- Q - shown on key plan
- R - see same use as adjacent
- N - all services as required (water, sanitary, sewer, hydro & cable)
- N - all services as required (water, sanitary, sewer, hydro & cable)

DEVELOPMENT STATISTICS/LAND USE SCHEDULE:

LAND USE	BLOCK NUMBER	UNITS	AREA (HA)
Condominium Townhouses	BLOCK 1	19	0.4495 ha
TOTAL:		19	0.4495 ha

NOTE: THIS IS A DRAFT PLAN ONLY AND IS SUBJECT TO REVISION AND AMENDMENT.

METRIC DISTANCES SHOWN ON THIS DRAFT PLAN ARE IN METERS AND METRIC. ONLY CONVERSIONS TO FEET BY DIVISION BY 3.048.

SCALE 1:200



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www.weststonconsulting.com

DATE	BY	REVISIONS LIST
11/18/2021	MD	Issue for plan and zoning use
10/20/2021	MD	Issue for zoning use
09/20/2021	MD	Issue for zoning use
08/20/2021	MD	Issue for zoning use

Project No: 1020
Drawing No: D1
Date: 11/18/2021

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Special Conditions for Draft Plan of Subdivision Approval for 25T-202404

That this approval apply to the Draft Plan of Subdivision “Part of Lot 7 – Block 5 Concession 1 (Geographic Township of Binbrook) City of Hamilton” 25T-202404, certified by Nicholas P. Muth, O.L.S., dated November 22, 2024, consisting of one development block for townhouse dwellings (Block 1), be received and endorsed by City Council with the following special conditions:

Development Engineering:

1. That, **prior to registration of the plan of subdivision**, the owner acknowledges and agrees in writing that submission of a Functional Servicing and Stormwater Management Report all to the satisfaction of the Director, Growth Management and Chief Development Engineer will be required through the Site Plan Control application addressing:
 - a) The stormwater management design for the subject development shall include filter media-landscaped based Low Impact Development (LID) techniques on Block 1 of the draft plan in accordance with the City of Hamilton and Ministry of the Environment, Conservation and Parks design standards. The owner further agrees to maintain, develop and implement a compliance and performance monitoring plan for all LID systems proposed within Block 1 for a minimum of 5 years;
 - b) That drainage for all lots within Block 1 shall be entirely self-contained including accommodation of any external drainage if applicable;
 - c) The stormwater emergency overland flow route must be directed to Rymal Road East;
 - d) The 100-year post-development storm discharge rate shall be controlled to the 5-year pre-development storm discharge rate identified in Table 1 of the Stormwater Management Report prepared by Quartek dated June 23, 2023. The controlled and uncontrolled storm discharge up to the 100-year storm event shall not exceed the pre-development flow identified in Table 1 above; and,
 - e) Level ‘1’ quality control shall be provided on-site.
2. That, **prior to registration of the plan of subdivision**, the owner acknowledges and agrees in writing that submission of a Hydrogeological Report through the Site Plan Control application will be required. The report shall be conducted by a qualified professional (P. Eng., P. Geo.) that discusses soil/groundwater conditions to properly characterize potential dewatering needs. This brief should

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discuss seasonal high groundwater levels, excavation depths, dewatering calculations (on a L/s and L/day basis), and if dewatering is required, groundwater quality sampling to compare against Sewer Use By-law criteria. The majority of these information requests can be provided if the applicant requires a geotechnical report to support the development without duplication of efforts, to the satisfaction of the Director, Growth Management and Chief Development Engineer.

3. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules, sewer and water service lateral connections for Block 1, to the satisfaction of the Director, Growth Management and Chief Development Engineer.
4. That, **prior to registration of the final plan of subdivision**, the owner shall submit a Watermain Hydraulic Analysis Report to demonstrate that the required domestic and fire flows are available within the appropriate pressure ranges in the water district to satisfy Section 3. Subsection ii) of By-law No. 23-186, to the satisfaction of the Director, Growth Management and Chief Development Engineer.
5. That, **prior to registration of the final plan of subdivision**, the owner pay their share for the outstanding cost recoveries for the municipal sanitary sewer on Rymal Road East and sanitary sewer drains per City of Hamilton By-law No. 14-035 and By-law No. 16-245 respectively, adjusted for inflation based on the current date at the time of payment, to the satisfaction of the Director, Growth Management and Chief Development Engineer.
6. That, **prior to registration of the final plan of subdivision**, the owner agrees, at their expense, to remove, relocate, as may be required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Rymal Road East, to the satisfaction of the Director, Growth Management and Chief Development Engineer.
7. That, **prior to registration of the final plan of subdivision**, the owner agrees in writing that the removal of all existing septic beds, garages, playground equipment, wells, fencing, and or any structures will be at the sole cost to the Owner to the satisfaction of the Director, Growth Management and Chief Development Engineer.

Planning Division

8. That, **prior to registration of the plan of subdivision**, the owner acknowledges and agrees in writing, through the Site Plan Control application, to investigate the noise levels on the site and determine and implement the noise control measures

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that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment, Conservation and Parks (MECP) recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Owner and shall be submitted to the satisfaction of the Director of Planning and Chief Planner.

9. That, **prior to preliminary grading**, the recognized tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) is to provide a Verification of Tree Protection Letter, to ensure that all tree protection measures have been implemented to the satisfaction of the Director of Planning and Chief Planner.
10. That, **prior to registration**, the owner shall provide a Landscape Plan prepared by a certified Landscape Architect showing the placement of compensation trees for any tree removals completed in accordance with the Arborist Report and Tree Protection Plan prepared by Davey Resource Group, dated October 6, 2022, to the satisfaction of the Director of Planning and Chief Planner.

Bell Canada

11. That, **prior to registration of the plan of subdivision**, the owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.
12. That, **prior to registration of the plan of subdivision**, the owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the owner shall be responsible for the relocation of any such facilities or easements at their own cost.

Hamilton Conservation Authority

13. That, **prior to registration of the plan of subdivision**, the owner acknowledges that the submission of the following will be required through the Site Plan Control application to the satisfaction of the Hamilton Conservation Authority:
 - a) A detailed Erosion and Sediment Control Plan;
 - b) A detailed Lot Grading, Servicing and Storm Drainage Plan;
 - c) The submission and approval of an HCA permit pursuant to Ontario Regulation 41/24 (Prohibited Activities, Exemptions, and Permits).

Growth Planning:

14. That, **prior to registration of the plan of subdivision**, the owner shall work with Legislative Approvals staff to finalize municipal addressing and street naming, to the satisfaction of the Director, Growth Management and Chief Development Engineer.

NOTES TO DRAFT PLAN APPROVAL

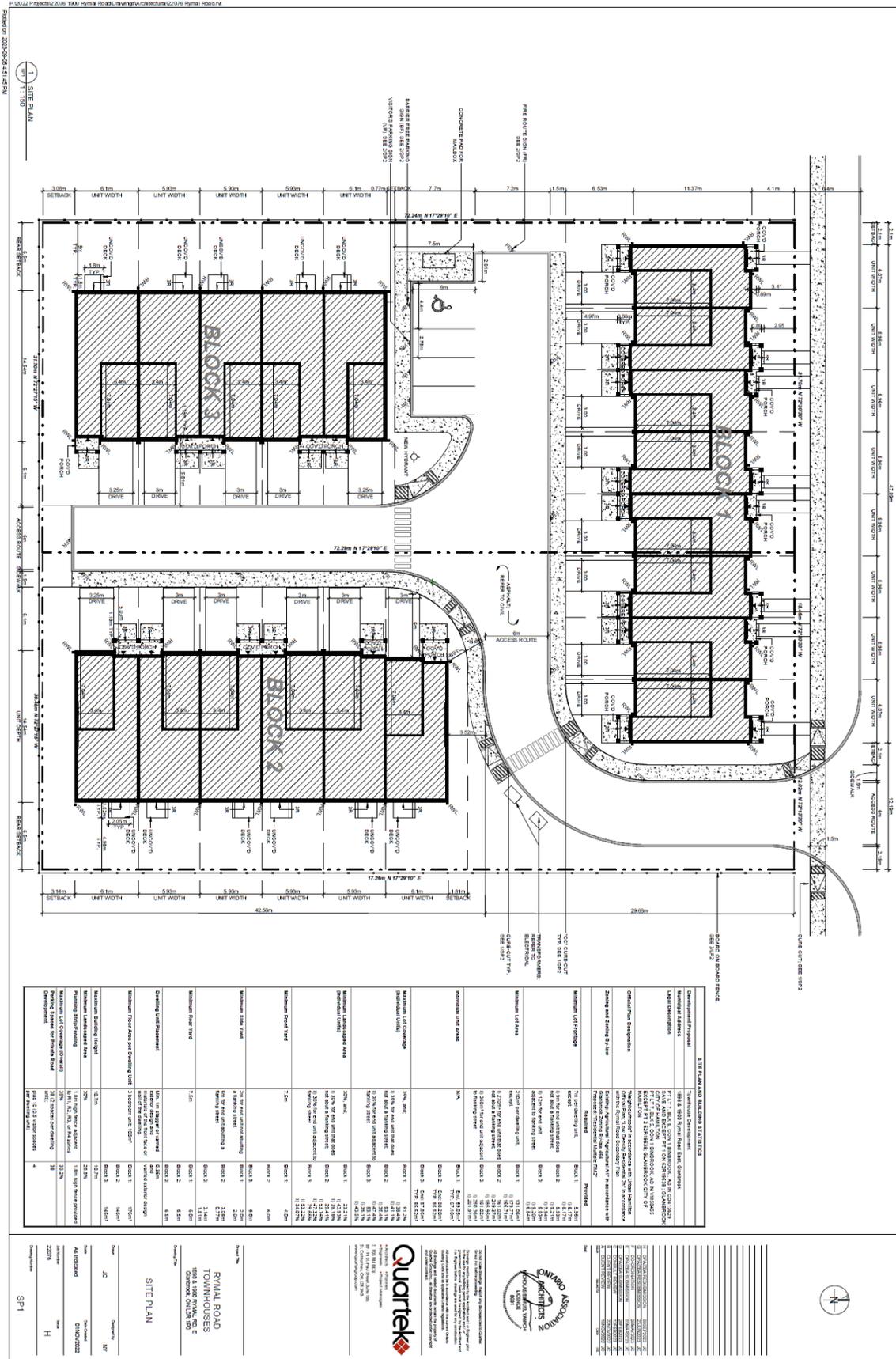
1. Pursuant to Section 51 (32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received two months before the draft approval lapses.

Recycling and Waste Disposal:

2. This property is eligible for municipal waste collection service subject to meeting the City’s requirements indicated by the Public Works Department and subject to compliance with the City’s Solid Waste Management By-law No. 09-067, as amended.

The property owner must contact the City by email wastemanagement@hamilton.ca or by telephone 905-546-CITY (2489) to request waste collection service. Waste Management staff will complete a site visit to determine if the property complies with the City’s waste collection requirements.

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Minimum Lot Frontage	Minimum Lot Coverage	Minimum Lot Area	Minimum Building Height	Minimum Building Area	Minimum Building Footprint	Minimum Building Footprint to Street	Minimum Building Footprint to Property Line	Minimum Building Footprint to Other Building	Minimum Building Footprint to Other Building
30m	15%	1,500 sqm	1.2m	150 sqm	150 sqm	150 sqm	150 sqm	150 sqm	150 sqm
30m	15%	1,500 sqm	1.2m	150 sqm	150 sqm	150 sqm	150 sqm	150 sqm	150 sqm
30m	15%	1,500 sqm	1.2m	150 sqm	150 sqm	150 sqm	150 sqm	150 sqm	150 sqm

Quartek

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Fax: (416) 291-1112
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Ontario Association of Municipalities

1000 Bay Street, Suite 1000
Toronto, Ontario M5G 1R7
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Fax: (416) 922-1112
www.ontariomunicipalities.org

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SUMMARY OF URBAN HAMILTON OFFICIAL PLAN POLICIES

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

Theme and Official Plan Policy	Summary of Issue	Staff Response
Provincial Planning Statement 2024		
<p>Management of Land Use, Settlement Area, Housing, Transportation Systems, Long-Term Economic Prosperity</p> <p>Policies: 2.3.3, 2.3.4 and 2.4.3</p>	<p>Settlement Areas are intended to be the focus of growth and development. Within Settlement Areas, land use patterns shall efficiently use land, infrastructure, and public service facilities, and be transit supportive. Healthy, liveable, and safe communities are, in part, sustained by accommodating a range and mix of residential types and promoting the integration of land use planning, transit supportive development, and by encouraging sense of place through promoting well designed built form.</p>	<p>The proposed draft plan of subdivision will facilitate a development which supports the development of healthy, liveable, and safe communities. The subject site is on Rymal Road East which is identified as a “Secondary Corridor” on Schedule E – Urban Structure of the Urban Hamilton Official Plan, which is intended to develop at a higher density and as a transit supportive location. Compact development is to occur within designated growth areas and having a mix of uses and densities promotes the efficient use of land, which utilizes infrastructure and public service facilities occurring along a Secondary Corridor. The development will support the use of existing and planned transit and commercial uses and it will also support active transportation.</p> <p>The proposal is consistent with these policies.</p>
Urban Hamilton Official Plan		
<p>Division of Land</p> <p>Policy F. 1.14.1.2</p>	<p>Subdivisions shall meet a number of criteria ensuring the development of blocks and lots in conjunction with the road network can support the intent of the land use designations.</p>	<p>The proposed draft plan of subdivision is for one block which will be further subdivided through a future Part Lot Control application. The proposed block will implement the proposed development as established through the Residential Multiple – Holding “H-RM2-328” Zone, Modified, and supports the intent of the land use designation.</p> <p>The proposal complies with this policy.</p>

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Theme and Official Plan Policy	Summary of Issue	Staff Response
<p>Trees</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>Through Zoning By-law Amendment application ZAC-23-036 trees were identified within the subject property and are proposed to be removed as part of the development. The Tree Protection Plan was not approved through the Zoning By-law Amendment application, and the amending By-law implemented a Holding Provision to ensure an approved Tree Protection Plan addresses the protection of trees and ensures permission from adjacent property owners are received for potential injuring of tree root system and to confirm if additional tree preservation could be achieved. Condition Nos. 9 and 10 in Appendix “C” attached to Report PED25020 have been included to ensure that tree protection is considered and implemented prior to pre grading of the subject lands. Further evaluation of the Tree Protection Plan and Landscape Plan will be required as part of the Site Plan Control process to remove the Holding Provision, with a 1 to 1 compensation required for any trees proposed to be removed.</p> <p>The proposal complies with this policy.</p>
<p>Transportation</p> <p>Policy C.4.5.12:</p>	<p>A transportation impact study shall be required for a draft plan of subdivision application.</p>	<p>A Holding Provision was included in By-law No. 23-186 for the review and approval of a Transportation Impact Study. The Transportation Consultant is to provide a proposed scope for review and approval by Transportation Planning prior to commencement of the study. The review will occur through the review of a future Holding Removal application and will be required prior to final approval of a future Site Plan Control application.</p> <p>The proposal complies with this policy.</p>

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Theme and Official Plan Policy	Summary of Issue	Staff Response
<p>Infrastructure</p> <p>Policy C.5.3.6:</p>	<p>All development within the urban area shall be connected to the City’s water and wastewater system.</p>	<p>The proposed development has municipal water and wastewater infrastructure available. A Holding Provision was included with Zoning By-law Amendment By-law No. 23-186 requiring a Watermain Hydraulic Analysis demonstrating that the required domestic water and fire flows are available within the appropriate pressure ranges and that the impact of this development on the surrounding pressure district is not adverse.</p> <p>Development Engineering staff will require the Holding Provision be removed prior to registration of the Draft Plan of Subdivision and condition No. 4 in Appendix “F” attached to Report PED25020 has been included ensure completion.</p> <p>The proposal complies with this policy.</p>
<p>Noise</p> <p>Policy B.3.6.3.1</p>	<p>Development of noise sensitive land uses, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines and standards.</p>	<p>Noise mitigation was reviewed through Zoning By-law Amendment application ZAC-23-036 and a noise study titled “Noise Impact Study, 1898 and 1900 Rymal Road East – Townhouse Development”, prepared by J.E Coulter Associates Limited and dated June 28, 2023, was reviewed. The study concluded that mitigation measures as well as warning clauses will be required to ensure noise attenuation can be achieved through building design material.</p> <p>Staff will require an addendum to the Noise Impact Study as a condition of the future Site Plan Control application to confirm Sound Transmission Class rating requirements based on floor plans and exterior wall design and ensure the appropriate noise warning clauses are implemented in all purchase, sale, and lease agreements. Condition No. 8 in Appendix “C” attached to Report PED25020 has been included to ensure that the Owner acknowledges that an addendum to the Noise Impact Study is required through Site Plan Control application. Warning clauses</p>

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Theme and Official Plan Policy	Summary of Issue	Staff Response
Noise Policy B.3.6.3.1 (continued)		will also be implemented through conditions of the future Draft Plan of Condominium application. The proposal complies with this policy.
Rymal Road Secondary Plan		
Low Density Residential 2h Policy E.3.10.1	Permitted residential uses include street townhouse dwellings, amongst others, with a density range from 24 to 50 units per net residential hectare.	The proposed use is permitted and with a density of 42 units per hectare is within the density range permitted. The proposal complies with this policy.

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CONSULTATION – DEPARTMENTS AND AGENCIES

Department/Agency	Comment	Staff Response
Hydro One Networks Inc, Real Estate Division.	No comment.	None.
Development Engineering Section, Growth Management Division, Planning and Economic Development Department	<p>Engineering staff requires conditions demonstrating acknowledgment that required detailed studies will be addressed through the future Site Plan Control application.</p> <p>Furthermore, Development Engineering will require the completion of a Hydrogeological Report, the engineering design and cost estimate schedules, sewer and water service lateral connections, and that the owner pay their share for the outstanding cost recoveries for the municipality.</p> <p>Development Engineering staff will also require the owner to agree that, at their expense, to remove or relocate, as may be required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Rymal Road East and the removal of all existing septic beds, garages, playground equipment, wells, fencing, and/or any structures.</p>	<p>Condition Nos. 1 and 2 in Appendix “C” attached to Report PED25020 will ensure that the owner acknowledges the required studies will be submitted and reviewed through the detailed design review of the future Site Plan Control application.</p> <p>Condition No. 4 in Appendix “C” attached to Report PED25020 requires a Watermain Hydraulic Analysis to demonstrate that the required domestic and fire flows are available within the appropriate pressure ranges in the water district.</p> <p>The condition for a Watermain Hydraulic Analysis was previously included in the amending Zoning By-law No. 23-186 as</p>

Appendix “F” to Report PED25020
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Department/Agency	Comment	Staff Response
<p>Development Engineering Section, Growth Management Division, Planning and Economic Development Department (continued)</p>		<p>holding provision Subsection ii. and will be required to be removed prior to registration of the Draft Plan of Subdivision.</p> <p>The matter of engineering design, final obligations as well as the removal of existing services and utilities will be addressed as Condition Nos. 3 to 7 in Appendix “C” attached to Report PED25020.</p>
<p>Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department</p>	<p>A Transportation Impact Study is to be submitted. The Transportation Consultant is to provide a proposed scope for review and approval by Transportation Planning prior to the commencement of the study.</p> <p>Transportation Planning requested additional information regarding detailed design to be addressed through the Site Plan Control application.</p> <p>Transportation Planning has confirmed the requirement for a right-of-way dedication has been provided.</p>	<p>Section 3. Subsection i. of By-law No. 23-186 included the requirement for the completion of a Transportation Impact Study with the amending site specific Residential Multiple – Holding “H-RM2-328” Zone, Modified.</p> <p>Additional detailed design comments will be addressed through the Site Plan Control application.</p>

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Department/Agency	Comment	Staff Response
<p>Waste Policy and Planning Section, Waste Management Division, Public Works Department</p> <p>Waste Policy and Planning Section, Waste Management Division, Public Works Department</p>	<p>The proposal was reviewed for municipal waste collection service, and as currently designed this development is not serviceable for municipal collections as continuous forward motion and “T” turnaround area do not meet current City standards.</p>	<p>A further review to determine if municipal waste collection service will occur through the future Site Plan Control application. If an appropriate design cannot be achieved private waste collection services will be required.</p> <p>Note No. 2 in Appendix “C” attached to Report PED25020 has been included should the proposal be eligible for municipal collection.</p>
<p>Forestry and Horticulture Section, Environmental Services Division, Public Works Department</p>	<p>Forestry does not have concerns with the Tree Management Plan as there are no trees within the municipal right-of-way. Further revisions to the Landscape Plan for trees to be included within the municipal right-of-way will be addressed through the Site Plan Control application. Condition No. 10 of Appendix “C” attached to Report PED25020 requires the Landscape Plan to be satisfied. This is to ensure the placement of compensation trees for any tree removals completed in accordance with the Arborist Report and Tree Protection Plan prepared by Davey Resource Group, dated October 6, 2022, is provided.</p>	<p>Through the Site Plan Control application revisions will be required to the Landscape Plan as well as through Condition No. 10 in Appendix “C” attached to Report PED25020 to ensure proper compensation can be accommodated.</p>

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Department/Agency	Comment	Staff Response
Legislative Approvals, Growth Management Plan, Planning and Economic Development Department	<p>The Owner and Agent should be made aware that the municipal address for the proposed development will be determined after conditional Site Plan approval is granted.</p> <p>Pursuant to Section 51(32) of the <i>Planning Act</i>, draft approval shall lapse if the plan is not given final approval within three years. However, extensions will be considered if a written request is received two months before the draft approval lapses.</p>	<p>Condition No. 14 in Appendix “C” attached to Report PED25020 has been included to ensure coordination between the owner and Growth Management staff occurs to finalize municipal addressing.</p> <p>Note No. 1 in Appendix “C” attached to Report PED25020 has been included to demonstrate the timeframe for approval and registration of the Draft Plan of Subdivision.</p>
Development Charges, Programs and Policies Corporate Services	Municipal charges will apply for 1898 and 1900 Rymal Road East, Glanbrook under the By-Law Nos. 14-035 and 16-245. The total payable for each property will be calculated at the current rate at time of payment.	Noted, municipal fee charges will be collected through conditions at the future Site Plan Control application stage.
Landscape Architectural Services Environmental Services, Public Works	Cash-in-lieu of parkland dedication will be requested, as required, at a later stage in the planning process.	Noted. The owner will be required to make payment prior to the issuance of a building permit.
Hamilton Conservation Authority	Hamilton Conservation Authority has no objection to the Draft Plan of Subdivision.	HCA staff will be circulated with the future Site Plan Control application to ensure

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Department/Agency	Comment	Staff Response
<p>Hamilton Conservation Authority (continued)</p>	<p>The site is regulated by the Hamilton Conservation Authority under Ontario Regulation 41/24 (Prohibited Activities, Exemptions, and Permits) made under the <i>Conservation Authorities Act</i>, R.S.O. 1990 due to proximity to the Eramosa Karst Earth Science Area of Natural and Scientific Interest. Therefore, written permission (Letter of Permission) from Hamilton Conservation Authority will be required for the proposed new development.</p> <p>The site is located just to the south of the Eramosa Karst Conservation Area, which is owned by Hamilton Conservation Authority. The Karst Assessment completed by Terra-Dynamics Consulting demonstrated that the subject property is not affected by natural hazards (karst). Therefore, Hamilton Conservation Authority is satisfied that the application is consistent with the natural hazard policies of the Provincial Planning Statement.</p> <p>The subject land will contribute storm water to the municipal storm sewer, and Hamilton Conservation Authority defers all quantity control issues to the City of Hamilton.</p> <p>Staff have reviewed the Landscape Plan and would recommend avoiding invasive species that could easily travel by seed and spread to the adjacent Conservation Area. Hamilton Conservation Authority suggests revising the Landscape Plan to remove the invasive plants from the planting list.</p>	<p>a Letter of Permission is issued and native plant species are provided.</p> <p>Hamilton Conservation Authority have included conditions to ensure the owner acknowledge that submission of a detailed Erosion and Sediment Control Plan, detailed Lot Grading, Servicing and Storm Drainage Plan will be required at the Site Plan Control stage as well as the submission and approval of a Hamilton Conservation Authority permit.</p> <p>These matters will be addressed as Condition No. 13 in Appendix "C" attached to Report PED25020.</p>

Appendix "F" to Report PED25020

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Department/Agency	Comment	Staff Response
Bell Canada	Bell Canada has requested the appropriate easements be included to service to the subject lands.	This requirement will be addressed through Condition Nos. 11 and 12 in Appendix "C" attached to Report PED25020 and the Standard Form Subdivision Agreement (Clauses 1.22 and 2.07).



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Increase to Building Permit Fees (PED25026) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Jorge M. Caetano (905) 546-2424 Ext. 3931
SUBMITTED BY:	Robert Lalli Director, Building and Chief Building Official Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the By-law, attached as Appendix "A" to Report PED25026 to amend City of Hamilton By-law No. 15-058, the Building By-law, which has been prepared in a form satisfactory to the City Solicitor, be enacted.

EXECUTIVE SUMMARY

On May 18, 2010, (Report PED10050(a)), Council directed the Building Division to adjust permit fees in January of every year to reflect budgetary increases. This Report explains the rationale for increasing the permit fees to cover the reasonable and necessary cost increases associated with budgetary increases expected in 2025. Based on projected expenses, the Building Division is proposing an increase of 3% for all permit fees.

Alternatives for Consideration – See Page 3

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Approval of the revised Building Permit Fees will ensure that all direct and indirect costs associated with delivering services related to the administration and enforcement of the *Building Code Act, 1992* are fully recovered.

Staffing: Not Applicable.

SUBJECT: Increase to Building Permit Fees (PED25026) (City Wide) - Page 2 of 3

Legal: The recommendations have no legal implications.

HISTORICAL BACKGROUND

On May 18, 2010, (Report PED10050(a)), Council directed the Building Division to adjust permit fees in January of every year to reflect budgetary increases.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Ontario Building Code and *Building Code Act, 1992*.

RELEVANT CONSULTATION

Legal Services Division has been consulted.

Financial Planning, Administration and Policy Division has been consulted.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Table 1 below provides a summary of the budgeted expenses under the Building Enterprise Model associated with the administration and enforcement of the *Building Code Act, 1992* for 2025.

Building Division		
Statement of Expenses for the Building Enterprise Model		
(Budget)		
	2024 Budget	2025 Draft Budget
Expenses		
Direct Costs	\$14,855,203	\$15,954,618
Indirect Costs	<u>\$ 2,266,486</u>	<u>\$ 2,504,066</u>
Total Expenses	<u>\$17,121,689</u>	<u>\$18,458,684</u>

Based on budget figures, the Building Division's expenditures for 2025 are expected to increase to \$18.4 million from the 2024 budget expenditures of \$17.1 million. This increase is mainly due to inflationary/cost of living increases from labour and administrative costs including pension and other employee benefits which the Division will incur in 2025. Based on the figures noted in Table 1, the Division's projected increase in expenses from 2024 to 2025 is 7.8%. Under the Ontario Building Code the Division's permit fees should cover the reasonable and necessary costs associated with the administration and enforcement of the *Building Code Act, 1992*, so that no reliance is placed on the general levy for the Division's operation. However, staff feel that a 7.8%

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: Increase to Building Permit Fees (PED25026) (City Wide) - Page 3 of 3

increase during the current housing affordability crisis may cause undue hardship to the construction industry. To address this concern staff are recommending that the Building Division at least cover the Collective Agreement general wage increase of 3% which comes into effect on January 1, 2025. Accordingly, the Building Division is proposing to increase permit fees by 3% (see Appendix “B”) in order to cover our Division’s Collective Agreement general wage increase in 2025.

Please note that, in order to simplify fees, the proposed 3% permit fee increase shown on the attached Appendices have been rounded off to the nearest full cent for all fees under \$100 and to the nearest full dollar for all fees over \$100.

As additional information, staff undertook a survey of the current permit fees of six Ontario Municipalities for several different classifications of permits as shown in Appendix “C.” The proposed 2025 permit fees for the City of Hamilton in these classifications, are all below or a few cents above the average of the sampled Municipalities. For clarification, the permit fees provided for the six municipalities are based on their current 2024 rates and do not reflect any proposed fee increase for 2025. All our current 2024 permit fees are below the 2024 average of the six municipalities surveyed.

Increasing the permit fees to cover the reasonable and necessary costs associated with the expected rise in expenses in 2025 will ensure these costs, associated with the administration and enforcement of the *Building Code Act, 1992*, are covered by the users of the system with no reliance placed on the general levy for its operation.

ALTERNATIVES FOR CONSIDERATION

The alternative would be to maintain the current fees; however, this could result in having to transfer additional funds from the Building Stabilization Fund which would go against the Building Division’s mandate of administering and enforcing the *Building Code Act, 1992* as a fully cost-recovered and self-funded program within the City. Maintaining the current fees would also go against Council’s direction given on May 18, 2010, (Report PED10050(a)) to the Building Division to adjust permit fees in January of every year to reflect budgetary increases in the cost of operations.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report 25026 - Proposed Building By-law Amendment
 Appendix “B” to Report 25026 – Existing and Proposed Fees for 2025
 Appendix “C” to Report 25026 – Permit Fee Comparison

JMC:II

**Appendix “A” to Report PED25026
Page 1 of 11**

Authority: Item , Planning and
Economic Development
Committee
Report
CM:

Bill No.

CITY OF HAMILTON

BY LAW NO. 25-

To Amend By-law No. 15-058

A By-law Respecting Building Permits and Related Matters

WHEREAS Council of the City of Hamilton desires to amend By-law No. 15-058, the Building By-law, to change Building Permit Fees;

AND WHEREAS public notice has been given and a public meeting held as required for this By-law;

AND WHEREAS section 7 of the *Building Code Act, 1992* authorizes Council of the City of Hamilton to pass by-laws concerning the issuance of permits and related matters;

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

1. Schedule “A” of By-law No. 15-058 is deleted and replaced with Schedule “A” attached to and forming part of this By-law;
2. That in all other respects, By-law 15-058 is confirmed; and
3. This By-law comes into force on the day it is passed.

PASSED this day of , 2025.

A. Horwath
Mayor

M. Trennum
City Clerk

**Appendix “A” to Report PED25026
Page 2 of 11**

**SCHEDULE “A” TO BUILDING BY-LAW NO. 15-058
RESPECTING CLASSES OF PERMITS AND FEES**

PERMIT FEES

1. Permit fees shall be calculated based on the formula given below, unless otherwise specified in this schedule:

$$\text{Permit Fee} = \text{SI} \times \text{A}$$

Where SI = Service Index for the applicable Classification under Section 3 below of the work proposed, and A = floor area in m² of work involved.

2. (a) Permit fees shall be rounded off to the nearest full dollar.
- (b) Where the permit fee is in excess of \$50,000 an applicant may elect to pay 55% of the full permit fee at the time of building permit application and the balance at the time of permit issuance.
- (c) Fees noted in this Schedule are subject to Harmonized Sales Tax (H.S.T.) where applicable.

CLASSES OF PERMITS AND FEES

3. Permit fees shall be calculated using the following table:

TABLE 1 – CLASSES OF PERMITS AND FEES

Minimum Fee	
Minimum fee for processing and issuance of permits, except where specifically noted otherwise in this By-law	\$291
Group A (Assembly Occupancies)	Service Index (SI) \$/m ² unless otherwise indicated
All Recreation Facilities, Elementary Schools, Daycare Facilities, Libraries, Places of Worship, Restaurants, Theatres, Arenas, Gymnasiums, Indoor Pools, Secondary Schools and all other Group A Buildings	\$27.21
Portable Classrooms	\$435 per portable
Shell only	\$23.62
Finishing only	\$6.18
Non-Residential – Outdoor Patio	\$218 (flat fee)

**Appendix “A” to Report PED25026
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Group B (Institutional Occupancies)	Service Index (SI) \$/m ² unless otherwise indicated
Institutional, Hospitals, Medical Care Facilities, Nursing Homes, and other Group B Buildings	\$32.52
Shell only	\$26.03
Finishing only	\$7.19
Group C (Residential Occupancies)	Service Index (SI) \$/m ² unless otherwise indicated
Detached house, semi-detached house or row house	\$18.32
Additional dwelling unit in an existing house	\$515 (Flat Fee)
Detached additional dwelling unit in the rear yard of a house	\$1,030 (Flat Fee)
Apartment buildings	\$18.32
Hotels, Motels	\$24.23
Other Residential Work (for a detached house, semi-detached house or row house)	Service Index (SI) \$/m ² unless otherwise indicated
Deck, balcony, open porch, stairs	\$5.36
Garage, storage shed	\$6.58
New basement, cold cellar	\$6.58
Finishing a basement	\$4.06
Residential greenhouse, open carport	\$5.36
Exterior barrier-free access	\$0.00
Group D (Business and Personal Services)	Service Index (SI) \$/m ² unless otherwise indicated
Office Buildings (up to 10 storeys) (Shell only)	\$18.29
Office Buildings (up to 10 storeys) (Finishing only)	\$5.85
Office Buildings (up to 10 storeys) (Finished)	\$24.14
Office Buildings (more than 10 storeys) (Shell only)	\$22.11
Office Buildings (more than 10 storeys) (Finishing only)	\$6.21
Office Buildings (more than 10 storeys) (Finished)	\$28.33

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Group E (Mercantile)	Service Index (SI) \$/m ² unless otherwise indicated
Retail (Shell only)	\$15.00
Retail (Finishing only)	\$5.07
Retail (Finished)	\$20.05
Group F (Industrial)	Service Index (SI) \$/m ² unless otherwise indicated
Industrial (Shell only)	\$9.08
Industrial (Finishing only)	\$4.96
Industrial (Finished)	\$14.06
Parking Garages	\$8.30
Gas Stations	\$15.15
Subsurface Works (in addition to the regular permit fee)	Flat Fee Unless otherwise indicated
Foundation Permits	
Residential under Part 9 of Division B of the Building Code	\$453
Residential/Commercial/Industrial/Institutional under Part 3 of Division B of the Building Code (up to 1200 m ²)	\$1,125
Residential/Commercial/Industrial/Institutional under Part 3 of Division B of the Building Code (greater than 1200 m ²)	\$3,377
Excavation and Shoring	\$12.49 per linear metre
New water service (low density residential only)	\$187
New water service when included with a complete building permit application for a new building (low density residential only)	\$168
New sewer service (low density residential only)	\$187
New sewer service when included with a complete building permit application for a new building (low density residential only)	\$168

**Appendix “A” to Report PED25026
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Designated Structures	Flat Fee
Retaining Wall	\$523
Crane Runway	\$523
Communication Tower	\$523
Exterior Storage Tanks and its supporting structure (including Silos)	\$523
Pedestrian Bridge/Walkway	\$523
Dish Antenna mounted on a Building (face area equal to or greater than 5 m ²)	\$523
Outdoor Public Spa	\$1,071
Outdoor Public Swimming Pool	\$2,121
Fire Protection Systems (stand alone – excludes relocation of components for existing system)	Service Index (SI) \$/m ² unless otherwise indicated
Electromagnetic Locks/Electric Strikes	\$248 each (maximum \$741)
Fire Alarm System	\$435 (flat fee)
Fire Fighting Water Reservoir	\$523 (flat fee)
Emergency Lighting/Exit Signs	\$435 (flat fee)
Sprinkler System	\$0.72
Standpipe System	\$435 (flat fee)
Combined Sprinkler and Standpipe System	\$0.72 (minimum \$435)
Mechanical Systems (stand alone)	Flat Fee
Commercial Cooking Exhaust System	\$435

**Appendix “A” to Report PED25026
Page 6 of 11**

Demolition (complete or partial building – not issued under Demolition Control By-law)	Service Index (SI) \$/m ² unless otherwise indicated
Residential – single/two family dwelling and townhouses	\$0.54
Accessory structures to a residential use or partial demolition of a single/two family dwelling and townhouses	\$0.54 (\$188 minimum)
Non-residential and multi residential	\$0.54 (\$464 minimum)
Plumbing Devices (stand alone)	Flat Fee
Backflow Preventer	
For first premise or zone device	\$291
For each additional premise or zone device	\$187
Backwater Valve	\$291
Grease/Oil Interceptor	\$291
Renewable (Green) Energy Systems	Flat Fee
Geothermal System for a Single/Two Family Dwelling	\$523
Geothermal System for all other Buildings	\$701
Solar Collector for a Single/Two Family Dwelling	\$291
Solar Collector for all other Buildings	\$523
Wind Turbine	\$523
Sewage Systems	Flat Fee
To construct a sewage system pursuant to the provisions of the Act	\$1,010
To construct a Class 5 sewage systems or to repair a sewage system pursuant to the provisions of the Act	\$619
Sewage System Maintenance Inspection Program	\$283

Appendix “A” to Report PED25026
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Signs	Flat Fee
Ground Sign with a sign area of less than or equal to 2.5 m ²	\$261
Ground Sign with a sign area of greater than 2.5 m ² and up to 4.0 m ²	\$458
Ground Sign with a sign area greater than 4.0 m ²	\$917
Awning, Canopy, Marquee, Parapet, Projecting and Wall Signs	\$458
Billboard	\$917
Other Classifications (not previously listed)	Service Index (SI) \$/m ² unless otherwise indicated
Accessory structures, garage, storage shed, new basement, cold cellar, unenclosed canopies, air supported structures	\$6.58
Farm Buildings	\$3.36
Greenhouses	\$2.01 (Maximum \$6,620)
Temporary Structures	
Tents	\$2.18 (Maximum \$464)
Sales Offices	\$17.90
Construction Trailers	\$14.16
Stages	\$292 (flat fee)
Other Structures (intended to be used for less than 6 months)	\$292 (flat fee)
Residential greenhouses, deck, balcony, open porch, exterior stair, ramp, open carport, terraces, exterior roof amenity areas	\$5.36
Balcony Guard (replacement only)	\$3.15 per linear metre
Balcony Repairs (localized concrete repairs including guards)	\$31.52 per balcony
Slab Reconstruction (other than Balconies)	\$6.30
Shelf and Rack Storage	\$1,010 (flat fee)

**Appendix “A” to Report PED25026
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Other Classifications (not previously listed) (continued)	Service Index (SI) \$/m ² unless otherwise indicated
Dust Collector	\$523 (flat fee)
Paint Booth	\$523 (flat fee)
Alterations/partitioning/renovations to existing finished areas (where no building systems are being installed or altered), relocation/moving permits	\$4.06
Re-roofing without any structural changes (except for buildings containing less than 4 dwelling units or townhouses)	\$0.35
Administrative Fees	Flat Fee
Additional Plan Review (Resubmission) Where a non-compliant resubmission is submitted above and beyond the first resubmission	\$187 (per hour of review time)
Additional Permit Fee (Revision) Where an applicant makes a material change to a plan, specification, document, or other information, following the issuance of a building permit (includes first hour of review time)	\$187
For each additional hour, or part thereof, of review time	\$187
Alternative Solution Application for an Alternative Solution under Section 2.1, of Division C, of the Building Code (up to 4 hours review time)	\$677
For each additional hour, or part thereof, of review time	\$187
Applicable Law Review Review and consultation for Applicable Law requirements	\$285
Building Code Compliance Letters Written requests for information concerning a building's compliance with the current Building Code	\$187 (per hour of review time)
Change of Use Permit Change of use Permit with no construction	\$291
Conditional Permit Fee Review and approval of Conditional Permit Agreements/Undertakings	10% of permit fee (minimum \$1,219, maximum \$4,267)

**Appendix “A” to Report PED25026
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Administrative Fees (continued)	Flat Fee
Fire Watch/Fire Plan Review and approval of Fire Watch/Fire Plans during construction	\$611
Limiting Distance Agreements For Review and approval of Limiting Distance Agreements under the Ontario Building Code	\$660
Occupancy Permit of an Unfinished Building Occupancy Permit for an Unfinished Residential Building (fee is for each individual Occupancy Permit request) Occupancy Permit for all other Unfinished Buildings (fee is for each individual Occupancy Permit request)	\$187 (+ \$45.84 for each additional unit) \$611
Permit or Application Extensions Extension of a building permit or permit application where no revisions are required	\$187
Pre-Consultation Building Code preliminary design consultation/review for proposed designs prior to a complete permit application being submitted	\$187 (per hour of review time)
Premature/Additional Inspections Where an inspection request is premature and the inspector must re-attend the site to complete the necessary inspection, or an additional inspection is requested or required	\$248 (per inspection)
Stock Plans Review of stock plans for new single-family dwellings in a Plan of Subdivision prior to a complete permit application being submitted	\$474
Suspended Permit Where an inspection is requested for a Permit that has been suspended	\$248 (per inspection)
Transfer of Permit Where ownership changes on a property and there are no other changes to the project or the professional services required.	\$187

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4. Where no new floor area is created, or where materials, systems or equipment regulated by the Building Code render it impossible to determine the permit fee on the basis of the classifications noted in this Schedule, the permit fee payable shall be 1% of the prescribed value as determined by the Chief Building Official under Subsection 6.1 of this By-law, subject to a minimum fee as per Section 3 of this Schedule.
5. The total fees under this Schedule and Schedule “C” shall be paid prior to the issuance of a permit.

6. INTERPRETATION

In addition to referring to the Act and the Building Code in determining the fees under this By-law, the Chief Building Official may have regard to the following explanatory notes as may be needed in the calculation of permit fees:

- (a) Floor area of the proposed work is to be measured to the outer face of exterior walls and to the centre line of party walls or demising walls (but excluding residential garages);
- (b) In the case of interior alterations or renovations, area of proposed work is the actual space receiving the work (e.g. tenant space);
- (c) Mechanical penthouses and floors, mezzanines, lofts, habitable attics, balconies, terraces and exterior roof amenity areas are to be included in all floor area calculations;
- (d) Except for interconnected floor spaces, no deduction is made for openings within the floor area (e.g. stairs, elevators, escalators, shafts, ducts, and similar openings);
- (e) Unfinished basements for single family dwellings, semis, duplexes and townhouses are not included in the floor area;
- (f) Attached garages and fireplaces are included in the permit fee for individual dwelling units;
- (g) Where interior alterations and renovations require relocation of sprinkler heads or fire alarm components, no additional charge is applicable;
- (h) Corridors, lobbies, washrooms, lounges, and similar areas are to be included and classified according to the major classification for the floor area on which they are located;
- (i) The occupancy categories in the Schedule correspond with the occupancy classifications in the Building Code. For mixed occupancy floor areas, the Service Index for each applicable occupancy category shall be used with the floor area associated with the occupancy.

Appendix "A" to Report PED25026

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- (j) A temporary building is considered to be a building that will be erected for not more than one year; and,
- (k) Where a change of use permit is subject to a fee based on floor area, "floor area" shall mean the total floor space of all storeys subject to the change of use.

Existing and Proposed Fees for 2025
(\$ per square metre unless otherwise noted)

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Minimum Fee	\$283	\$291
Group A (Assembly Occupancies)		
All Recreation Facilities, Elementary Schools, Daycare Facilities, Libraries, Places of Worship, Restaurants, Theatres, Arenas, Gymnasiums, Indoor Pools, Secondary Schools and all other Group A Buildings	\$26.42	\$27.21
Portable Classrooms	\$422 per portable	\$435 per portable
Shell Only	\$22.93	\$23.62
Finishing Only	\$6.00	\$6.18
Non-Residential - Outdoor Patio	\$212 (flat fee)	\$218 (flat fee)
Group B (Institutional Occupancies)		
Institutional, Hospitals, Medical Care Facilities, Nursing Homes, and other Group B Buildings	\$31.57	\$32.52
Shell Only	\$25.27	\$26.03
Finishing Only	\$6.98	\$7.19
Group C (Residential Occupancies)		
Detached house, semi-detached house or row house	\$17.79	\$18.32
Additional dwelling unit in an existing house	\$500 (Flat Fee)	\$515 (Flat Fee)
Detached additional dwelling unit in the rear yard of a house	\$1,000 (Flat Fee)	\$1,030 (Flat Fee)
Apartment Buildings	\$17.79	\$18.32
Hotels, Motels	\$23.52	\$24.23
Other Residential Work (for a detached house, semi or row house)		
Deck, balcony, open porch, stairs	\$5.20	\$5.36
Garage, storage shed	\$6.39	\$6.58
New basement, cold cellar	\$6.39	\$6.58
Finishing a basement	\$3.94	\$4.06
Residential greenhouse, open carport	\$5.20	\$5.36
Exterior barrier-free access	\$0.00	\$0.00

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Group D (Business and Personal Services)		
Office buildings (up to 10 storeys) (Shell only)	\$17.76	\$18.29
Office Buildings (up to 10 storeys) (finishing only)	\$5.68	\$5.85
Office Buildings (up to 10 storeys) (finished)	\$23.44	\$24.14
Office Buildings (more than 10 storeys) (shell only)	\$21.47	\$22.11
Office Buildings (more than 10 storeys) (finishing only)	\$6.03	\$6.21
Office Buildings (more than 10 storeys) (finished)	\$27.50	\$28.33
Group E (Mercantile)		
Retail (Shell only)	\$14.56	\$15.00
Retail (finishing only)	\$4.92	\$5.07
Retail (finished)	\$19.47	\$20.05
Group F (Industrial)		
Industrial (Shell Only)	\$8.82	\$9.08
Industrial (Finishing Only)	\$4.82	\$4.96
Industrial (Finished)	\$13.65	\$14.06
Parking Garages	\$8.06	\$8.30
Gas Stations	\$14.71	\$15.15
Subsurface Works (in addition to the regular permit fee)	Flat Fee	Flat Fee
Foundation Permits		
Residential under Part 9 of Division B of the Building Code	\$440	\$453
Residential/Commercial/Industrial/Institutional under Part 3 of Division B of the Building Code (up to 1 200 m ²)	\$1,092	\$1,125
Residential/Commercial/Industrial/Institutional under Part 3 of Division B of the Building Code (greater than 1 200 m ²)	\$3,279	\$3,377
Excavation and Shoring	\$12.13 per linear metre	\$12.49 per linear metre
New water service (low density residential only)	\$182	\$187

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Subsurface Works (in addition to the regular permit fee) (continued)	Flat Fee	Flat Fee
New water service when included with a complete building permit application for a new building (low density residential only)	\$163	\$168
New Sewer Service (low density residential only)	\$182	\$187
New sewer service when included with a complete building permit application for a new building (low density residential only)	\$163	\$168
Designated Structures	Flat Fee	Flat Fee
Retaining Wall	\$508	\$523
Crane Runway	\$508	\$523
Communication Tower	\$508	\$523
Exterior Storage Tanks and its supporting structure (including Silos)	\$508	\$523
Pedestrian Bridge/Walkway	\$508	\$523
Dish Antenna mounted on a Building (face area ≥ 5 m ²)	\$508	\$523
Outdoor Public Spa	\$1,040	\$1,071
Outdoor Public Swimming Pool	\$2,059	\$2,121
Fire Protection Systems (Stand Alone - excludes relocation of components for an existing system)		
Electromagnetic Locks/Electric Strikes	\$241 each (maximum \$719)	\$248 each (maximum \$741)
Fire Alarm System	\$422 (Flat Fee)	\$435 (Flat Fee)
Fire Fighting Water Reservoir	\$508 (Flat Fee)	\$523 (Flat Fee)
Emergency Lighting/Exit Signs	\$422 (Flat Fee)	\$435 (Flat Fee)
Sprinkler System	\$0.70	\$0.72
Standpipe System	\$422 (Flat Fee)	\$435 (Flat Fee)
Combined Sprinkler and Standpipe System	\$0.70 (minimum \$422)	\$0.72 (minimum \$435)
Mechanical Systems (Stand Alone)	Flat Fee	Flat Fee
Commercial Cooking Exhaust System	\$422	\$435

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Demolition (complete or partial building - not issued under Demolition Control By-law)		
Residential - Single/Two Family Dwelling and Townhouses	\$0.52	\$0.54
Accessory structures to a residential use or partial demolition of a single/two family dwelling and townhouses	\$0.52 (\$182 minimum)	\$0.54 (\$188 minimum)
Non-Residential and Multi-Residential	\$0.52 (\$450 minimum)	\$0.54 (\$464 minimum)
Plumbing Devices (Stand Alone)	Flat Fee	Flat Fee
Backflow Preventer		
For First premise or zone device	\$283	\$291
For each additional premise or zone device	\$182	\$187
Backwater Valve	\$283	\$291
Grease/Oil Interceptor	\$283	\$291
Renewable (Green) Energy Systems	Flat Fee	Flat Fee
Geothermal System for a Single/Two Family Dwelling	\$508	\$523
Geothermal System for all other buildings	\$681	\$701
Solar Collector for a Single/Two Family Dwelling	\$283	\$291
Solar Collector for all other buildings	\$508	\$523
Wind Turbine	\$508	\$523
Sewage Systems	Flat Fee	Flat Fee
To construct a sewage system pursuant to the provisions of the Act	\$981	\$1,010
To construct a Class 5 sewage system or to repair a sewage system pursuant to the provisions of the Act	\$601	\$619
Sewage System Maintenance Inspection Program	\$275	\$283

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Signs	Flat Fee	Flat Fee
Ground Sign with a sign area of less than or equal to 2.5 m ²	\$253	\$261
Ground Sign with a sign area greater than 2.5 m ² and up to 4.0 m ²	\$445	\$458
Ground Sign with a sign area greater than 4.0 m ²	\$890	\$917
Awning, Canopy, Marquee, Parapet, Projecting and Wall Signs	\$445	\$458
Billboard	\$890	\$917
Other Classifications (not previously listed)		
Accessory structures, garage, storage shed, new basement, cold cellar, silo, unenclosed canopies, air supported structures	\$6.39	\$6.58
Farm Buildings	\$3.26	\$3.36
Greenhouses	\$1.95 (maximum \$6,427)	\$2.01 (maximum \$6,620)
Temporary Structures		
Tents	\$2.12 (maximum \$450)	\$2.18 (maximum \$464)
Sales Offices	\$17.38	\$17.90
Construction Trailers	\$13.75	\$14.16
Stages	\$283 (flat fee)	\$292 (flat fee)
Other Structures (intended to be used for less than 6 months)	\$283 (flat fee)	\$292 (flat fee)
Residential Greenhouses, deck, balcony, open porch, exterior stair, ramp, open carport, terraces, exterior roof amenity areas	\$5.20	\$5.36
Balcony Guard (replacement only)	\$3.06 per linear metre	\$3.15 per linear metre
Balcony Repairs (localized concrete repairs including guards)	\$30.60 per balcony	\$31.52 per balcony
Slab Reconstruction (other than Balconies)	\$6.12	\$6.30
Shelf and Rack Storage	\$981 (flat fee)	\$1,010 (flat fee)
Dust Collector	\$508 (Flat Fee)	\$523 (Flat Fee)

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Other Classifications (not previously listed) (continued)		
Paint Booth	\$508 (Flat Fee)	\$523 (Flat Fee)
Alterations/partitioning/renovations to existing finished areas (where no building systems are being installed or altered), relocation/moving permits	\$3.94	\$4.06
Re-roofing without any structural changes	\$0.34	\$0.35
Administrative Fees	Flat Fee	Flat Fee
Additional Plan Review (Resubmission)		
Where a non-compliant resubmission is submitted above and beyond the first resubmission	\$182 (per hour of review time)	\$187 (per hour of review time)
Additional Permit Fee (Revision)		
Where an applicant makes a material change to a plan, specification, document, or other information, following the issuance of a building permit (includes first hour of review time)	\$182	\$187
For each additional hour or part thereof of review time	\$182	\$187
Alternative Solution		
Application for an Alternative Solution under Section 2.1, of Division C, of the Building Code (up to 4 hours review time)	\$657	\$677
For each additional hour or part thereof of review time	\$182	\$187
Applicable Law Review		
Review and consultation for applicable law requirements	\$277	\$285
Building Code Compliance Letters		
Written requests for information concerning a building's compliance with the current Building Code	\$182 (per hour of review time)	\$187 (per hour of review time)
Change of Use Permit		
Change of use Permit with no construction	\$283	\$291
Conditional Permit Agreement/Undertaking		
Review and approval of Conditional Permit Agreement/Undertaking	10% of permit fee (Minimum \$1,183, Maximum \$4,143)	10% of permit fee (Minimum \$1,219, Maximum \$4,267)
Fire Watch/Fire Plan Review		
Review and approval of Fire Watch/Fire Plans during construction	\$593	\$611

Classes of Permits and Fees	Existing 2024 Fee	Proposed 2025 Fee (3% Increase)
Administrative Fees (continued)	Flat Fee	Flat Fee
<p>Limiting Distance Agreements For review and approval of Limiting Distance Agreements under Sentence 3.2.3.1.(8), 9.10.14.2.(4) or 9.10.15.2.(4), of Division B, of the Building Code</p>	\$641	\$660
<p>Occupancy Permit of an Unfinished Building Occupancy Permit for an Unfinished Residential Building (fee is for each individual Occupancy Permit request) Occupancy Permit for an Unfinished Residential Building (fee is for each individual Occupancy Permit request)</p>	\$182 (+ \$44.50 for each additional unit) 593	\$188 (+ \$45.84 for each additional unit) \$611
<p>Permit or Application Extensions Extension of building permit or permit application where no revisions are required</p>	\$182	\$187
<p>Pre-Consultation Building Code preliminary design consultation/review for proposed designs prior to a complete permit application being submitted</p>	\$182 (per hour of review time)	\$188 (per hour of review time)
<p>Premature/Additional Inspections Where an inspection request is premature and the inspector must re-attend the site to complete the necessary inspection, or an additional inspection is requested or required</p>	\$241 (per inspection)	\$248 (per inspection)
<p>Stock Plans Review of stock plans for new single family dwellings in a Plan of Subdivision prior to a complete permit application being submitted</p>	\$460	\$474
<p>Suspended Permit Where an inspection is requested for a permit that has been suspended</p>	\$241 (per inspection)	\$248 (per inspection)
<p>Transfer of Permit Where ownership changes on a property and there are no other changes to the project or the professional services required</p>	\$182	\$187

Permit Fee Comparison

Municipality ¹	Group A Restaurant	Group B Institutional	Group C Residential House	Group D Offices (2 Storeys)	Group E Retail (Finished)	Group F Industrial Building (3000 m ²) (Finished)
Brampton (2024)	\$18.87	\$23.93	\$16.78	\$18.25	\$18.25	\$11.97
Burlington (2024)	\$31.15	\$35.30	\$22.00	\$30.60	\$30.60	\$17.03
Cambridge (2024)	\$32.51	\$36.81	\$17.55	\$26.05	\$19.38	\$12.81
Mississauga (2024)	\$25.98	\$28.87	\$18.44	\$23.15	\$19.32	\$14.44
Oakville (2024)	\$30.00	\$34.30	\$17.80	\$23.25	\$23.70	\$19.10
Toronto (2024)	\$28.61	\$30.44	\$17.16	\$22.62	\$19.20	\$15.73
Average (2024 Fees)	\$27.85	\$31.61	\$18.29	\$23.99	\$21.74	\$15.18
Hamilton (Existing 2024 Fees)	\$26.42	\$31.57	\$17.79	\$23.44	\$19.47	\$13.65
Hamilton (Proposed 2025 Fees)	\$27.21	\$32.52	\$18.32	\$24.14	\$20.05	\$14.06

Notes:

1. The permit fees provided for the above noted municipalities are based on 2024 rates and do not reflect any proposed fee increase for 2025.



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Demolition Permit – 58 Carluke Road West (PED25027) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Jorge M. Caetano (905) 546-2424 Ext. 3931
SUBMITTED BY:	Robert Lalli Director, Building and Chief Building Official Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the request by the owner to issue a demolition permit for 58 Carluke Road West without the rebuild conditions be **APPROVED** since the single detached dwelling is located next to an industrial use (bakery) and a new single detached dwelling would be incompatible with the existing industrial use of the property;
- (b) That the Chief Building Official be authorized to issue a demolition permit for 58 Carluke Road West in accordance with By-law 22-101, pursuant to Section 33 of The Planning Act, as amended, without having to comply with section 6(a) of the Demolition Control Area By-law 22-101.

EXECUTIVE SUMMARY

On May 8, 2024, Council directed staff that reports were to be prepared and submitted to the Planning Committee with a recommendation for the issuance/refusal of demolition permits where the proposed demolition did not fall under one of the exemptions, or delegated authority, contained in the Demolition Control Area By-law 22-101.

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

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**SUBJECT: Demolition Permit – 58 Carluke Road West (PED25027) (Ward 12) -
Page 2 of 5**

The owner of 58 Carluke Road West has submitted the required demolition permit application and is proposing to demolish the existing single detached dwelling with no plans to build a new residence on the property. Demolition of a single detached dwelling is subject to the Demolition Control Area By-law 22-101. Under By-law 22-101, in certain scenarios, Council delegates demolition approval of a Residential Property to the Chief Building Official.

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

Where the owner of the property does not agree with the required standard conditions, or where the Chief Building Official refuses to issue demolition control approval, the Demolition Control Area By-law requires the Chief Building Official to advise Council. Council then retains all power to issue or refuse to issue Demolition Control Approval.

This Report is presented to Council as the owner would like to demolish the existing single detached dwelling with no plans to build a new residence on the property.

Cultural Heritage has provided comments stating that his property also meets the criteria for archaeological potential, but there is no applicable law under the Ontario Heritage Act preventing issuance of a Building Permit related to potential disturbance of an area of archaeological potential. Heritage staff recommend that the owner be advised of their concerns noted on pages 3 and 4 of this Report.

Since the single detached dwelling is located next to an industrial use, and a new single detached dwelling would be incompatible with the existing industrial use of the property, staff are of the opinion that the request to issue a demolition permit should be granted without the applicant having to comply with the conditions in section 6(a) of the Demolition Control Area By-law 22-101.

Alternately, if Council feels the request is not reasonable, Council could approve the alternative recommendation on page 5 of this report and deny the demolition permit until such time as the owner complies with the conditions in section 6(a) of the Demolition Control Area By-law 22-101.

Alternatives for Consideration – See Page 5

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**SUBJECT: Demolition Permit – 58 Carluke Road West (PED25027) (Ward 12) -
Page 3 of 5**

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Under the Demolition Control Area By-law, Council delegates the Chief Building Official it's authority to issue Demolition Control Approval to demolish Residential Property under certain scenarios. The most common scenario, which is applicable in this situation, is where the erection of a new building is proposed on the site of the Residential Property to be demolished and where the standard conditions, which are required to be registered on title, apply.

The owner has submitted the required demolition building permit application; however, they have no plans to construct a new residence. The agent for the owner is stating that the single detached dwelling is vacant and run down. They also state that the property is a bakery factory which has been running for decades. There are substantial odours coming out of the bakery as well as annoying noise that have caused incidences between the bakery and former tenants. Additionally, as part of the negotiations for a new lease the current tenant of the bakery is insisting that the home be demolished. According to the agent of the owner, the new lease is crucial to the continuation of the bakery which supplies many jobs in the area.

Cultural Heritage Comments

The property at 58 Carluke Road West, Ancaster, (also 1770 Fiddlers Green Road, Oakrun Farm Bakery) is on the City's Inventory of Heritage Properties. Upon receiving notice of the Building Permit Application to Demolish in 2023, Heritage staff conducted additional research on the property and determined that the dwelling proposed to be demolished was most likely constructed in the late 19th century. It resembles a vernacular Ontario Cottage but appears to have been heavily modified. No significant historical or associative value was identified through staff's research. Therefore, staff does not recommend taking any formal action in response to the proposed demolition. Staff did reach out to the owner to request photographs (documentation) and that the owner engage someone to salvage any remaining heritage features prior to demolition. According to our files, staff have not received a response to date on this request.

The property also meets the criteria for archaeological potential, but there is no applicable law under the Ontario Heritage Act preventing issuance of a Building Permit

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**SUBJECT: Demolition Permit – 58 Carluke Road West (PED25027) (Ward 12) -
Page 4 of 5**

related to potential disturbance of an area of archaeological potential. Heritage staff recommend that the owner be advised of the following:

“The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbance, in addition to any areas impacted by the installation of services, such as water, electricity and ground-source heat pumps, and the proponent is advised to conduct an archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the MCM.

Should deeply buried archaeological materials be found on the property during any of the above development activities the 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).”

PRESENT ZONING: A1, Zoning By-law 05-200. Grand River Conservation Authority.

PRESENT USE: Bakery with an accessory single detached dwelling.

PROPOSED USE: Bakery.

BRIEF DESCRIPTION: The single detached dwelling at 58 Carluke Road West is a 2-storey aluminium sided single detached dwelling. The single detached dwelling is vacant, windows open and currently open to trespass. This property is on the City’s Inventory of Heritage Properties, however, Cultural Heritage has stated that there is no applicable law under the Ontario Heritage Act to prevent the issuance of a demolition permit (see their comments on pages 3 and 4 of this report). See Appendix “A” to report PED25027 for photos.

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**SUBJECT: Demolition Permit – 58 Carluke Road West (PED25027) (Ward 12) -
Page 5 of 5**

This land is located in Ward 12. Please see Appendix “B” to report PED25027 for a location map.

Since the single detached dwelling is located next to an industrial use and a new single detached dwelling would be incompatible with the existing industrial use of the property, staff are of the opinion that the request to issue a demolition permit should be granted without the applicant having to comply with the conditions in section 6(a) of the Demolition Control Area By-law 22-101.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not Applicable.

RELEVANT CONSULTATION

Cultural Heritage Planning has been consulted and while 58 Carluke Road West is on the City’s Inventory of Heritage Properties, staff does not recommend taking any formal action in response to the proposed demolition. The property also meets the criteria for archaeological potential, but there is no applicable law under the Ontario Heritage Act preventing issuance of a Building Permit related to potential disturbance of an area of archaeological potential (see their comments on pages 3 and 4 of this Report).

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Not Applicable.

ALTERNATIVES FOR CONSIDERATION

Should the Committee wish to deny the demolition of the single detached dwelling at 58 Carluke Road West the following recommendation would be appropriate:

That the Chief Building Official be authorized to issue demolition permits for 58 Carluke Road West in accordance with By-law 22-101, pursuant to Section 33 of *The Planning Act* as amended, once the applicant has applied for and received a building permit for a replacement building on the property, and they have complied with the conditions in section 6(a) of the Demolition Control Area By-law 22-101.

APPENDICES AND SCHEDULES ATTACHED

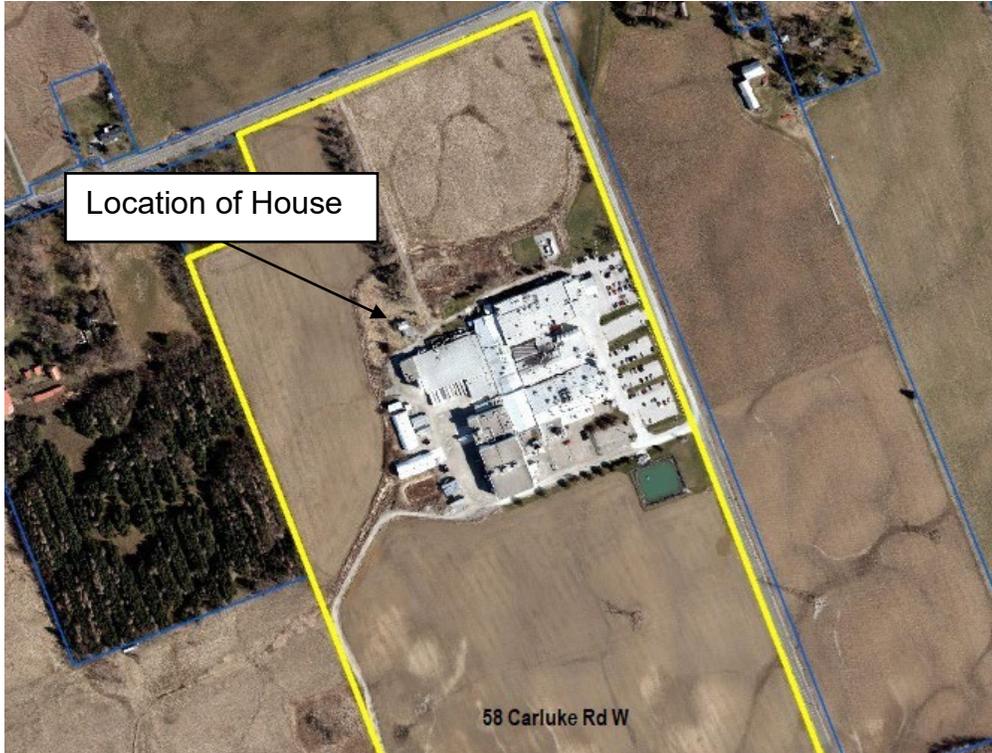
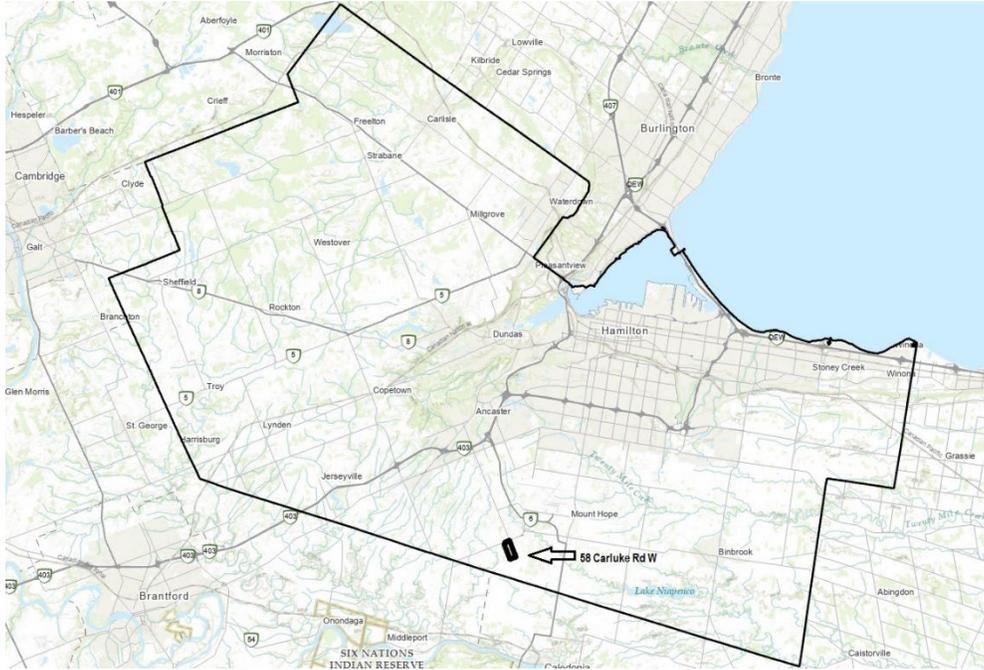
Appendix “A” to Report PED25027 – Photos of Single detached dwellings
Appendix “B” to Report PED25027 – Location Map

JMC:II

Photos of 58 Carluke Road West Taken on December 5, 2024



LOCATION MAP



58 Carl Luke Road West



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (PED25009) (Ward 11)
WARD AFFECTED:	Ward 11
PREPARED BY:	David Bonaventura (905) 546-2424 Ext. 3364
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Council gives approval to the following actions, as detailed in Report PED25009, respecting Committee of Adjustment Minor Variance application GL/A-24:09 by Jen Vanderherberg, on behalf of Mitchell Gelms, Elza Gelms and Patricia Gelms (owners), for the lands located at 2016 Regional Road No. 56, Glanbrook, as shown in Appendix "A" attached to Report PED25009, granted by the Committee of Adjustment, and 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 Minor Variance application GL/A-24:09; and,
- (b) That Council directs appropriate Legal Services, Planning staff and Source Protection Planning staff to attend the future Ontario Land Tribunal hearing in opposition to the decision of the Committee of Adjustment to approve Minor Variance application GL/A-24:09.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (PED25009) (Ward 11) – Page 2 of 9

EXECUTIVE SUMMARY

The applicant, Jen Vanderherberg, on behalf of Mitchell Gelms, Elzo Gelms and Patricia Gelms (owners), submitted Minor Variance application GL/A-24:09 to permit the construction of an additional dwelling unit within the existing single detached dwelling on lands municipally known as 2016 Regional Road No. 56, shown on the Location Map in Appendix “A” attached to Report PED25009. Minor Variance application GL/A-24:09 is seeking relief from the required minimum lot area of 0.6 hectares for an additional dwelling unit.

The subject lands have a lot area of 0.15 hectares and contain an existing single detached dwelling serviced by a septic system and cistern. The Minor Variance application is requesting to permit a minimum lot area of 0.15 hectares whereas the Zoning By-law requires a minimum lot area of 0.6 hectares for an additional dwelling unit.

The application was considered and approved by the Committee of Adjustment at the September 10, 2024, Committee of Adjustment hearing. Staff’s recommendation was not to support the application since the requested variance does not maintain the general intent of the Rural Hamilton Official Plan and City of Hamilton Zoning By-law No. 05-200. The application is not considered minor in nature due to potential impacts on neighbouring properties. The application is not considered desirable for the appropriate development or use of the land as described in Section 45(1) of the *Planning Act* since the proposed development could potentially impact the health and safety of private water systems of neighbouring dwellings.

Policy C.3.1.2 d) of the Rural Hamilton Official Plan and Section 4.33.3 a) of Zoning By-law No. 05-200 require a minimum lot size of 0.6 hectares for an additional dwelling unit. These requirements are meant to ensure rural properties can sustainably and safely support private water and wastewater services. Source Protection Planning staff have indicated that the subject lands are too small to sustainably support an additional dwelling unit in accordance with Section C.5.1, Private Water and Wastewater Services (refer to Appendix “B” attached to Report PED25009 for staff comments).

Under the *Planning Act*, appeals must be filed within 20 days of the date of giving notice of the decision. As such on September 24, 2024, Development Planning staff, in consultation with Source Protection Planning staff, appealed the decision of the Committee of Adjustment to the Ontario Land Tribunal, subject to Council’s approval/ratification. Staff recommend proceeding with the appeal. A hearing was set for December 10, 2024, and was adjourned upon consent of the parties.

Alternatives for Consideration – See Page 9

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (PED25009) (Ward 11) – Page 3 of 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Planning staff has submitted the required fee of \$400 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, Jen Vanderherberg, on behalf of Mitchell Gelms, Elzo Gelms and Patricia Gelms (owners), submitted Minor Variance application GL/A-24:09 to permit the construction of an additional dwelling unit within the existing single detached dwelling on lands municipally known as 2016 Regional Road No. 56, Glanbrook, shown on the Location Map as Appendix “A” attached to Report PED25009.

Minor Variance application GL/A-24:09 was originally applied for on January 17, 2024, and was scheduled to be heard at the February 27, 2024, Committee of Adjustment meeting but the application was tabled at the request of the applicant. The application was subsequently brought forward to the Committee of Adjustment meeting held on September 10, 2024.

Minor Variance application GL/A-24:09 proposed to vary the minimum lot area required for an additional dwelling unit. The minimum required lot size for an additional dwelling unit within the Agriculture (A1) Zone is 0.6 hectares. However, the subject lands have a lot area of 0.15 hectares and do not meet the required minimum lot area.

Staff comments recommended the Minor Variance application be denied as it does not satisfy the four tests of a Minor Variance as described in Section 45(1) of the *Planning Act*, is not consistent with the Provincial Planning Statement (2024), does not conform with the Greenbelt Plan (2017) and does not comply with the policies of the Rural Hamilton Official Plan as the subject lands do not meet the minimum lot area requirements to sustainably support an additional dwelling unit in accordance with Section C.5.1 of the Rural Hamilton Official Plan (see Appendix “B” attached to Report PED25009). The Committee of Adjustment granted approval of Minor Variance

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (PED25009) (Ward 11) – Page 4 of 9

application GL/A-24:09 on September 10, 2024. Please refer to the Decision attached as Appendix “D” to Report PED25009.

Under the *Planning Act*, Minor Variance appeals must be filed within 20 days of the date of decision. As such on September 24, 2024, Development Planning staff in consultation with Source Protection Planning 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).”

Through the review of the submitted Minor Variance application, staff noted that the proposed development does not comply with the policies of the Rural Hamilton Official Plan. Per Policy C.3.1.2 d) an additional dwelling unit may be permitted within an existing single or semi-detached dwelling on a lot within the “Agriculture” designation if the lot has a minimum lot area of 0.6 hectares and if the proposed development complies with all other applicable policies and Zoning By-law regulations. Staff determined that the size of the subject land is not sufficient to meet this policy.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (PED25009) (Ward 11) – Page 5 of 9

Similarly, Source Protection Planning staff determined that the existing lot, at 0.15 hectares in size, is insufficient to support an additional dwelling unit per the policies found in Section C.5.1 - Private Water and Wastewater Services of the Rural Hamilton Official Plan.

Based on the foregoing, the Minor Variance application does not meet the four tests of a Minor Variance described by the *Planning Act* and should be denied.

Provincial Planning Statement (2024)

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Planning Statement (2024). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the Provincial Planning Statement (2024).

Policy 3.6.4 of the Provincial Planning Statement (2024) permits the use of private water and wastewater services where municipal services are unavailable and the long-term provision of said private services has no negative impacts. Policy 4.3.2.5 permits up to two additional residential units on a lot within a prime agricultural area provided the additional residential units, amongst other requirements, have appropriate sewage and water services and address any public health and safety concerns. Source Protection Planning staff have indicated that the subject lands are too small to sustainably support an additional dwelling unit. Based upon these policies, it is staff's opinion that the proposal is not consistent with the Provincial Planning Statement (2024) as the size of the subject property is insufficient to sustainably support the proposed additional dwelling unit.

Greenbelt Plan (2017)

Policy 4.5.3 of the Greenbelt Plan (2017) permits second dwelling units within single detached dwellings or within existing accessory structures on the same lot. However, Policy 4.1.1.2 b) requires that proposals for non-agricultural uses within prime agricultural areas demonstrate that the type of water and sewer servicing proposed is appropriate for the proposed type of use. As previously noted, Source Protection Planning staff have indicated that the subject lands are too small to sustainably support an additional dwelling unit. Therefore, it is staff's opinion that the size of the subject property is insufficient to sustainably support the proposed additional dwelling unit.

Rural Hamilton Official Plan

The subject site is designated "Agriculture" within Schedule D – Rural Land Use Designations. The following policies, amongst others, apply to the proposal.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Minor Variance Application GL/A-24:09 for Lands Located at 2016 Regional Road No. 56, Glanbrook (PED25009) (Ward 11) – Page 6 of 9

- “C.3.1.2 The following uses shall be permitted in the Agriculture, Specialty Crop, Rural and Rural Settlement Area designations, provided the applicable conditions are met: (OPA 5)
 d) A secondary dwelling unit may be permitted within a single or semi-detached dwelling on a lot with a minimum size of 0.6 ha, provided it complies with all applicable policies and Zoning By-law regulations. (OPA 26) (OPA 30)
- C.3.1.4 The following uses shall be permitted in the Agriculture, Specialty Crop and Rural designations, provided the applicable conditions are met: (OPA 5)
 a) Except as permitted in Sections D.2.1.1.6 and C.3.1.4 b) and c) of this Plan, a maximum of one dwelling per lot shall be permitted in designations where residential uses are permitted. The Zoning By-law shall limit permitted dwellings to a maximum of one residence per lot in designations where residential uses are permitted; and (OPA 23)
- 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)
 a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or proposed private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the proponent does not agree with the City’s calculations, the proponent shall be required to submit a hydrogeological study report completed in accordance with Section F.3.2.5 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as maybe approved or amended from time to time.(OPA 23)
 b) Any information submitted, or study required in Policy C.5.1.1 a) shall be completed to the satisfaction of the City in accordance with Section F. 3. 2.5 of this Plan and Hydrogeological Study Guidelines as may be amended from time to time. The City may request or

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conduct a peer review of the study or servicing information, which shall be completed by an agency or professional consultant acceptable to the City and retained by the City at the applicant's expense. (OPA 23)

- d) Development of a new land use or a new or replacement building on an existing lot that require(s) water and/or sewage servicing, may only be permitted where it has been determined by the requirements of Policies C.5.1.1 a) and b) that the soils and size of the lot are sufficient to accommodate the water system and sewage disposal system within acceptable levels of on-site or off-site impacts including nitrate impact, and shall include sufficient land for a reserve discharge site or leaching bad. The maximum lot size shall be in accordance with F.1.14.2.1 f). (OPA 26)
- e) The private water supply and sewage disposal systems shall be capable of sustaining the proposed and existing uses within acceptable levels of on-site and off-site water quantity and quality impacts, including nitrate impact;
- g) The existing or proposed water supply system shall include a well with sufficient quantity of water and with potable water supply to sustain the use. A cistern system that meets current accepted standards, may, to the satisfaction of the City, be an additional component of the water supply system. (OPA 26)"
- h) Notwithstanding Policy C.5.1.1 g), a cistern that meets accepted standards may be used as a primary water source in the following circumstances: (OPA 18)
 - i) The building of a dwelling on an existing lot in accordance with Policy F.1.12.6, where insufficient water supply is due to the impacts of dewatering for mineral aggregate extraction as demonstrated by a quarry area of influence study, approved by the Province and provided by the proponent.
 - ii) Redevelopment of an existing use on an existing lot, which is serviced by an existing water cistern, provided there is no negative impact of the proposal on the cistern.
 - iii) New development on an existing lot if it is demonstrated by an applicant, through submission of evidence in the form of a

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well test, hydrogeological study or other, that groundwater quality or quantity is inadequate to support the use, to the satisfaction of the City.

- iv) The severance of an existing dwelling in accordance with Section F.1.14.2, serviced by an existing water cistern, provided there is no negative impact on the cistern.”

Staff note that the Minor Variance application is to permit an additional dwelling unit within an existing single detached dwelling on a lot with an area of 0.15 hectares. Per Policy C.3.1.2 d) of the Rural Hamilton Official Plan an additional dwelling unit may be permitted within a single detached dwelling on a lot with a minimum size of 0.6 ha, provided it complies with all other applicable policies and Zoning By-law regulations. Staff note that the proposal does not meet the criteria identified in Policy C.3.1.2 d), with the subject property being undersized compared to the minimum required lot area of 0.6 hectares.

In addition, Policy C.5.1.1 d) of the Rural Hamilton Official Plan only permits development of a new land use on an existing lot where it has been determined by the requirements of Policies C.5.1.1 a) and b) that the soils and size of the lot are sufficient to accommodate the water system and sewage disposal system within acceptable levels of on and off-site impacts, including nitrate impacts. Additionally, there must be sufficient land for a reserve discharge site or leaching bed.

Source Protection Planning staff recommended denial of the Minor Variance application. The subject property is not of a size sufficient to sustainably support an additional dwelling unit, per Section C.5.1 Private Water and Wastewater Services.

As such, Source Protection Planning and Development Planning staff are of the opinion that the Minor Variance application does not maintain the general intent of the Rural Hamilton Official Plan. The proposal does not comply with the policies regarding additional dwelling units in the “Agriculture” designation nor does it comply with the sustainable private servicing policies found in Section C.5.1, Private Water and Wastewater Services.

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

The subject property is zoned Agriculture (A1) Zone. Staff note that the minimum lot area for single detached dwellings within the Agriculture (A1) Zone is 0.4 hectares and the minimum lot area for additional dwelling units within the Agriculture (A1) Zone is 0.6 hectares. The subject property is an existing lot of record that has a lot area of 0.15

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hectares. Minor Variance application GL/A-24:09 was submitted to seek relief from the minimum lot area requirement for an additional dwelling unit.

RELEVANT CONSULTATION

- Corporate Services Department, Legal Services Division; and,
- Public Works Department, Hamilton Water Division, Watershed Management Section, Source Protection Planning Group.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The proposed Minor Variance application does not meet the four tests of a minor variance as described in Section 45(1) of the *Planning Act* on the basis that the proposal does not meet the private servicing policies of the Rural Hamilton Official Plan or minimum lot area requirements of the Zoning By-law. These requirements are meant to ensure rural properties can sustainably and safely support private water and wastewater services for existing and proposed residential uses.

Based on the foregoing, it is appropriate for the City to appeal the Committee of Adjustment's approval of Minor Variance application GL/A-24:09 to the Ontario Land Tribunal.

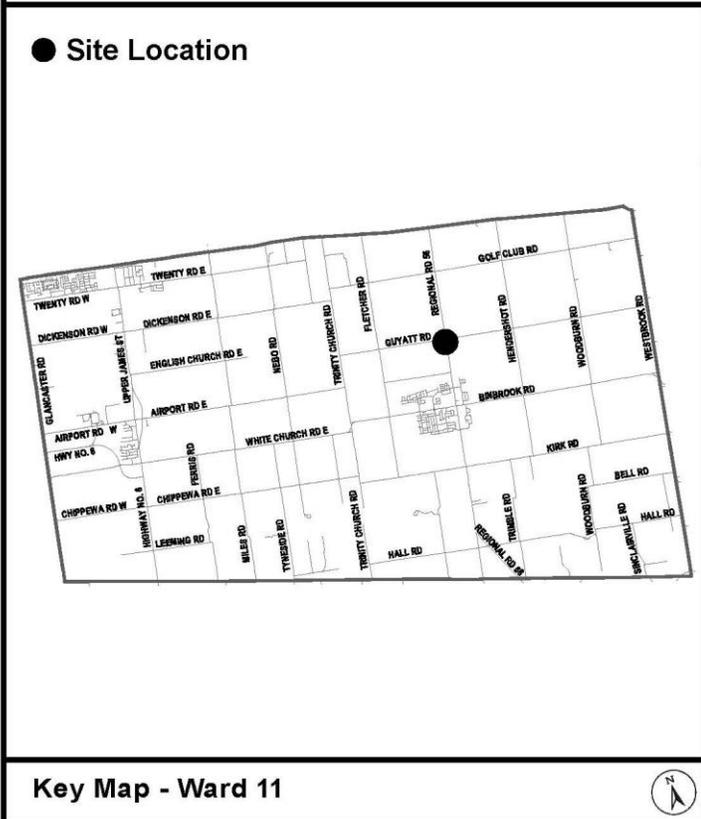
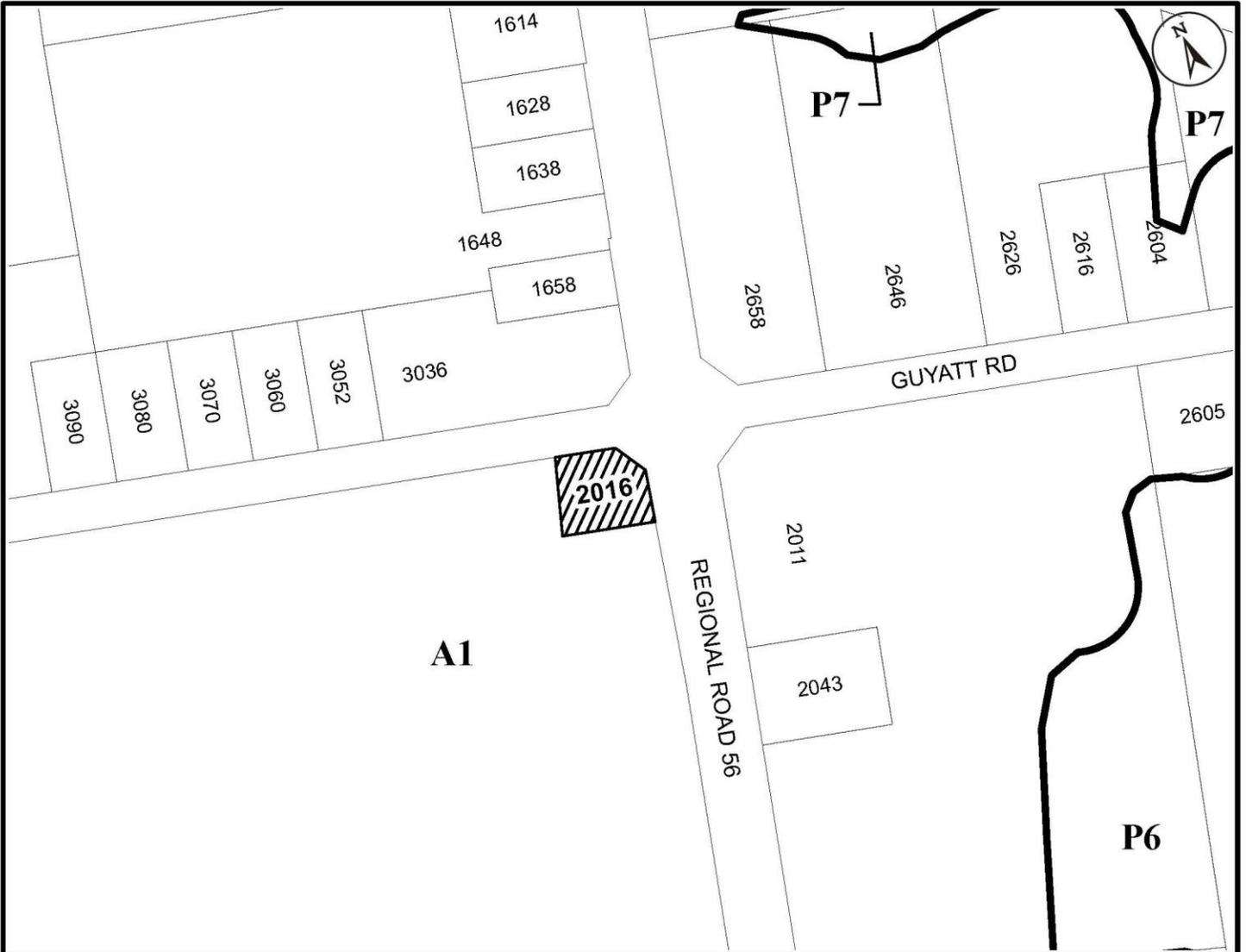
ALTERNATIVES FOR CONSIDERATION

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 Minor Variance application.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED25009 – Location Map
 Appendix "B" to Report PED25009 – Staff Comments for GL/A-24:09
 Appendix "C" to Report PED25009 – GL/A-24:09 Minor Variance Application
 Appendix "D" to Report PED25009 – GL/A-24:09 Committee of Adjustment Decision

DB/mb



Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
GL/A-24:09

Date:
October 31, 2024

Appendix "A"	Scale: N.T.S	Planner/Technician: DB/AL
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Subject Property

2016 Regional Road 56

GL/A-24:09 (2016 Regional Rd. 56, Glanbrook)

Recommendation:

Development Planning – Deny
Source Protection Planning - Deny

Proposed Conditions:

Proposed Notes:

Development Planning:

Background

To permit the construction of an additional dwelling unit with the existing single detached dwelling.

Analysis

Greenbelt Plan

The subject lands are designated "Protected Countryside" under the Greenbelt Plan. Section 4.5.3 of the Greenbelt Plan permits second dwelling units within single dwellings or within existing accessory structures on the same lot. Section 4.1.1.2, amongst other requirements, requires that the proposal demonstrate appropriate water and sewer servicing.

Rural Hamilton Official Plan

The subject lands are designated "Agriculture" and in Schedule D – Rural Land Use Designations of the Rural Hamilton Official Plan. Policy C.3.1.2, C.3.1.4 and C.5.1, amongst others, are applicable and permit the existing single detached dwelling. Development Planning staff defer to Source Protection staff regarding the proposal's conformity to the minimum servicing requirements of Policy C.5.1.

Policy C.3.1.2 d) permits an additional dwelling unit within a single or semi-detached dwelling on a lot with a minimum size of 0.6 hectares and if it complies with all other applicable policies of the Rural Hamilton Official Plan and Zoning By-law regulations. Staff note that the subject property has an area of 0.15 hectares, which is significantly below the minimum 0.6 hectares required in Policy C.3.1.2 d).

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

The subject lands are zoned Agricultural (A1) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling and proposed accessory structure are permitted uses.

Variance 1

1. An additional dwelling unit within the Agricultural (A1) Zone shall be permitted on a lot that is 0.15 hectares in size instead of the minimum required lot area of 0.6 hectares.

The intent of this provision is to ensure the subject property is large enough to meet the minimum private servicing requirements identified in Policy C.5.1 of the Rural Hamilton Official Plan to sustainably support a single detached dwelling and an additional dwelling unit.

Staff note that the subject lands have a total area of 0.15 hectares, whereas the Zoning By-law requires a minimum lot area of 0.6 hectares to permit an internal additional dwelling unit within an existing dwelling. The minimum requirements identified in Policies C.3.1.2 d) and C.5.1 and implemented in the Zoning By-law are meant to ensure a property can sustainably support development as it relates to water quality and public health risks stemming from private water and wastewater systems. Development Planning staff defer to Source Protection staff regarding conformity of the proposal to the requirements of Policy C.5.1.

However, as Policy C.3.1.2 d) establishes 0.6 hectares as a minimum, Development Planning staff are of the opinion that the requested variance does not maintain the intent of the Rural Hamilton Official Plan and Zoning By-law and is not considered desirable for the appropriate development, nor is it minor in nature. Staff do not support the variance.

Staff are of the opinion that the requested variance does not maintain the intent of the Rural Hamilton Official Plan and Zoning By-law and is not considered desirable for the appropriate development, nor is it minor in nature. Based on the foregoing, **staff recommend denial.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	<ol style="list-style-type: none"> 1. Please be advised the lands are subject to amending by-law 24-051, which are not yet final and binding. 2. The waste disposal and water supply shall be in accordance with Section 4.22 iii), as per amending by-law 24-051 not yet final and binding.

Development Engineering:

Recommendation:	Approve
Proposed Conditions:	
Comments:	No Comments
Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	<p>A building permit is required for the construction of the proposed two single detached dwellings.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

Transportation Planning:

Recommendation:	No comments.
Proposed Conditions:	
Comments:	
Notes:	

Source Protection Planning:

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>Source Protection Planning understands that the applicant is seeking a minor variance of a minimum lot area of 0.15 ha instead of the minimum lot area of 0.6 ha for the proposal of an attached additional dwelling unit on an existing 0.15 ha lot.</p> <p>The current lot size of 0.15 ha is considered insufficient for an additional dwelling unit as per the Hamilton Rural Official Plan, C.5.1 - Private Water and Wastewater Services. Therefore, Source Protection Planning cannot support the application.</p>
Notes:	

Please Note: Public comment will be posted separately, if applicable.

Hamilton COA

Kyle Riley <kriley@npca.ca>

Tue 9/3/2024 10:10 AM

To:Committee of adjustment <cofa@hamilton.ca>

Cc:Sarah Mastroianni <smastroianni@npca.ca>

 5 attachments (3 MB)

2187 Regional Road 56 Basemap.pdf; Extent Basemap 3417 and 3325 Tyneside Road.pdf; Basemap 9724 Twenty Road.pdf; 2016 Regional Road 56 Basemap.pdf; 3300 Homestead Drive.pdf;

External Email: Use caution with links and attachments

Hello Jamila,

Please see below the Niagara Peninsula Conservation Authorities (NPCA) comments for Hamiltons COA meeting on September 10th, 2024.

GL/A-24:09 2016 REGIONAL ROAD 56: There is no features under NPCA-jurisdiction at this lot—at this time. As such, this Office offers No Comment and will not require a review fee.

A-24:187 3300 Homestead Drive: There is no features under NPCA-jurisdiction at this lot—at this time. As such, this Office offers No Comment and will not require a review fee.

A-24:188 3325 Tyneside Road: Both 3417 and 3325 Tyneside are traversed by numerous NPCA-regulated watercourses which do not have regulated floodplains. As the proposal is a Boundary Adjustment, and there is no associated change in land-usage the NPCA offers No Objections to the proposals. No Planning or Permitting fees are required for this review.

A-24:184 2187 Regional Road 56: The Applicants are seeking a Minor Variance to Permit the construction of 5 accessory storage structures without these structures existing behind a main building. The Applicants also seek a Minor Variance to Permit the storage of various categories of vehicles on the site. A total of six accessory buildings will be added to the site as a result of the Minor Variance. A separate Site Plan Application is also being undertaken at this lot, and the comments provided here shall only apply to the issues mentioned above.

Previous site-visits conducted by the NPCA at the subject address have confirmed the presence of wetlands to the east of the proposed lots, which retain a 30m development set-back. The locations of the size accessory buildings, along with the structures of the rights-of-way, and the snow storage are beyond the reach of NPCA-regulated features on-site. As such, the NPCA offers No Objections to the Minor Variances at the lot and will continue reviewing the Site Plan Application at the same location. Again, please only apply our comments to the Minor Variance titled "**A-24-184.**" No fees are requested for this review.

B-24:46 9724 Twenty Road W: There is no features under NPCA-jurisdiction at this lot—at this time. As such, this Office offers No Comment and will not require a review fee.

Should you have any questions on the above, please, do not hesitate to contact the underwritten.

Kind regards,

ArcGIS Web Map



9/3/2024, 10:01:24 AM

1:1,128

SWOOP 2020 NPCA

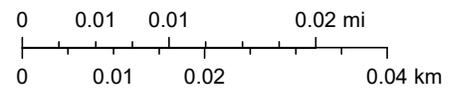
- Red: Band_1
- Green: Band_2
- Blue: Band_3

Roads

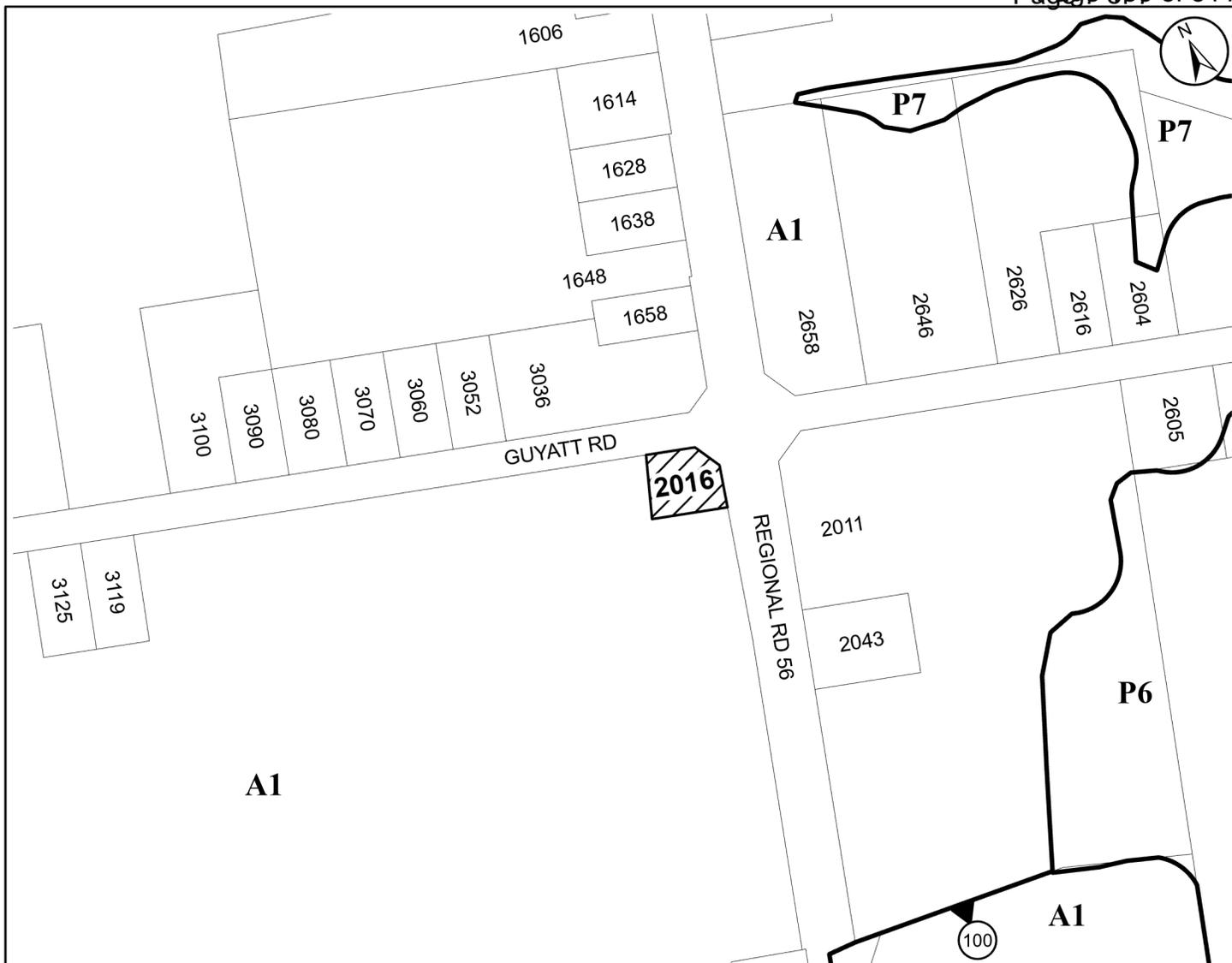
FLOWLINES Enhanced Local Feature Type Flowlines

- Ditch - Other

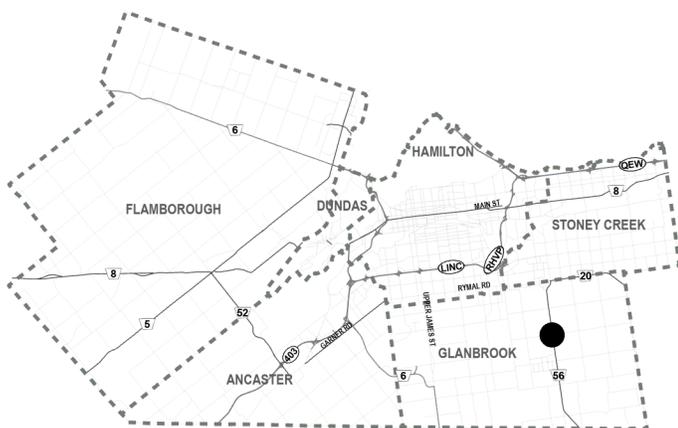
- <all other values>
- CityView Application Views
- Assessment Parcels
- 2K Hydrography
- ELC 2020 NPCA
- Niagara Region Ortho 2023
- Red: Red



NPCA, Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property

 2016 Regional Road 56, Glanbrook (Ward 11)

File Name/Number:

GL/A-24:09

Date:

August 23, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



Hamilton



Hamilton

NOTICE OF PUBLIC HEARING
Minor Variance

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
- Applicant/agent on file, or
- Person likely to be interested in this application

APPLICATION NO.:	GL/A-24:09	SUBJECT PROPERTY:	2016 Regional Road 56, Glanbrook
ZONE:	A1 (Agriculture)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200

APPLICANTS: Owner: Mitchell Gelms, Elzo and Patricial Gelms
Agent: Jen Vanderherberg

The following variances are requested:

1. An additional dwelling unit within the A1 Zone shall be permitted on a lot that is 0.15 hectares in size instead of the minimum required lot area of 0.6 hectares.

PURPOSE & EFFECT: To facilitate the construction of an additional dwelling unit within an existing single detached dwelling.

Notes:

1. Please be advised the lands are subject to amending by-law 24-051, which are not yet final and binding.
2. The waste disposal and water supply shall be in accordance with Section 4.22 iii), as per amending by-law 24-051 not yet final and binding.

This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.

This application will be heard by the Committee as shown below:

DATE:	Tuesday, September 10, 2024
TIME:	2:20 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	City Hall Council Chambers (71 Main St. W., Hamilton)

GL/A-24:09

	To be streamed (viewing only) at www.hamilton.ca/committeeofadjustment
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For more information on this matter, including access to drawings illustrating this request and other information submitted:

- Visit www.hamilton.ca/committeeofadjustment
- Visit Committee of Adjustment staff at 5th floor City Hall, 71 Main St. W., Hamilton

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, written comments must be received no later than noon September 6, 2024

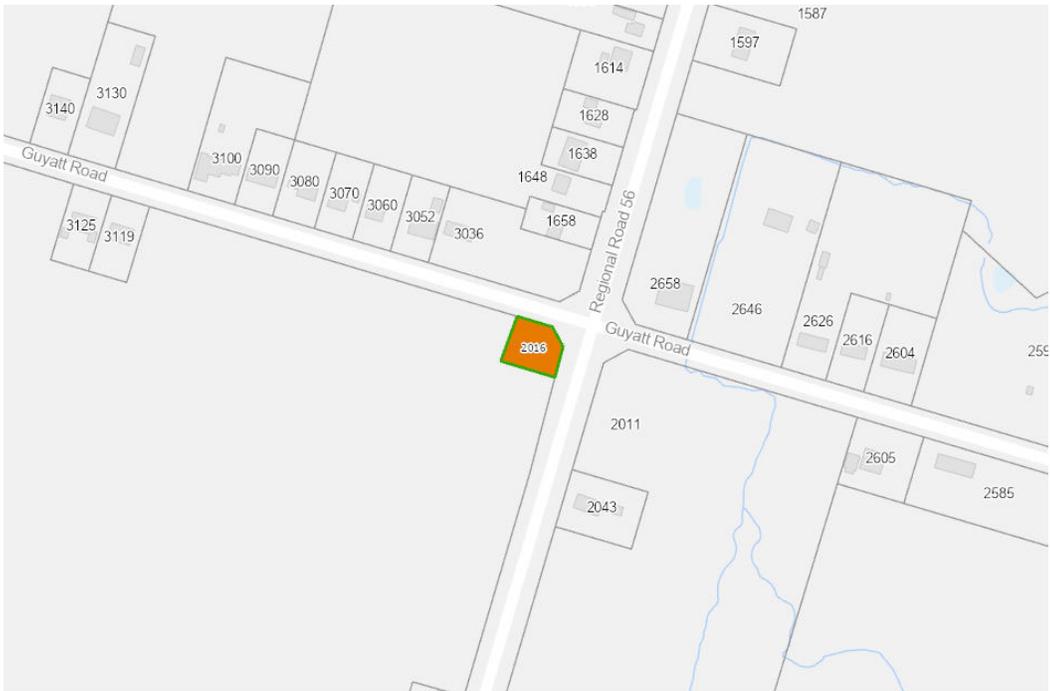
Orally: If you would like to speak to this item at the hearing you may do so via video link, calling in, or attending in person. Please see attached page for complete instructions, registration to participate virtually must be received no later than noon September 9, 2024

FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding GL/A-24:09, you must submit a written request to cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided a Notice of Decision, you must attend the Public Hearing and file a written request with the Secretary-Treasurer by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

GL/A-24:09



 Subject Lands

DATED: August 22, 2024

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public, and may include posting electronic versions.



Hamilton

PARTICIPATION PROCEDURES

Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing advance of the meeting. Comments can be submitted by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon on the date listed on the Notice of Public Hearing.**

Comments are available the Friday prior to the Hearing and are available on our website: www.hamilton.ca/committeeofadjustment

Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

1. Virtual Oral Submissions

Interested members of the public, agents, and owners **must register by noon on the day listed on the Notice of Public Hearing** to participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email cofa@hamilton.ca. The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting one business day before the Hearing. Only those registered will be called upon to speak.

2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **no less than 10 minutes** before the time of the Public Hearing as noted on the Notice of Public Hearing.

We hope this is of assistance and if you need clarification or have any questions, please email cofa@hamilton.ca.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.

LEGEND:

- PROPERTY BOUNDARY LINE
- STRUCTURE BOUNDARY
- x-x-x FENCE
- - - SEPTIC BED

RELEVANT SITE DEVELOPMENT DETAILS

MAJOR OCCUPANCY: A1 BYLAW 05-200

TABLE 3.1.2.1 OF 2012 OBC AND IN ACCORDANCE WITH DEFINITIONS FOR "RESIDENTIAL OCCUPANCY" PER ARTICLE 1.4.1.2 DIVISION A OF 2012 OBC

EXISTING GROSS FLOOR AREA: 133.22 m²
 BASEMENT: 133.22 m²
 MAIN FLOOR UNIT: 133.22 m²

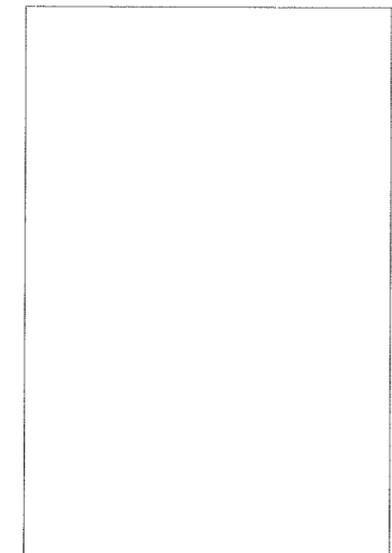
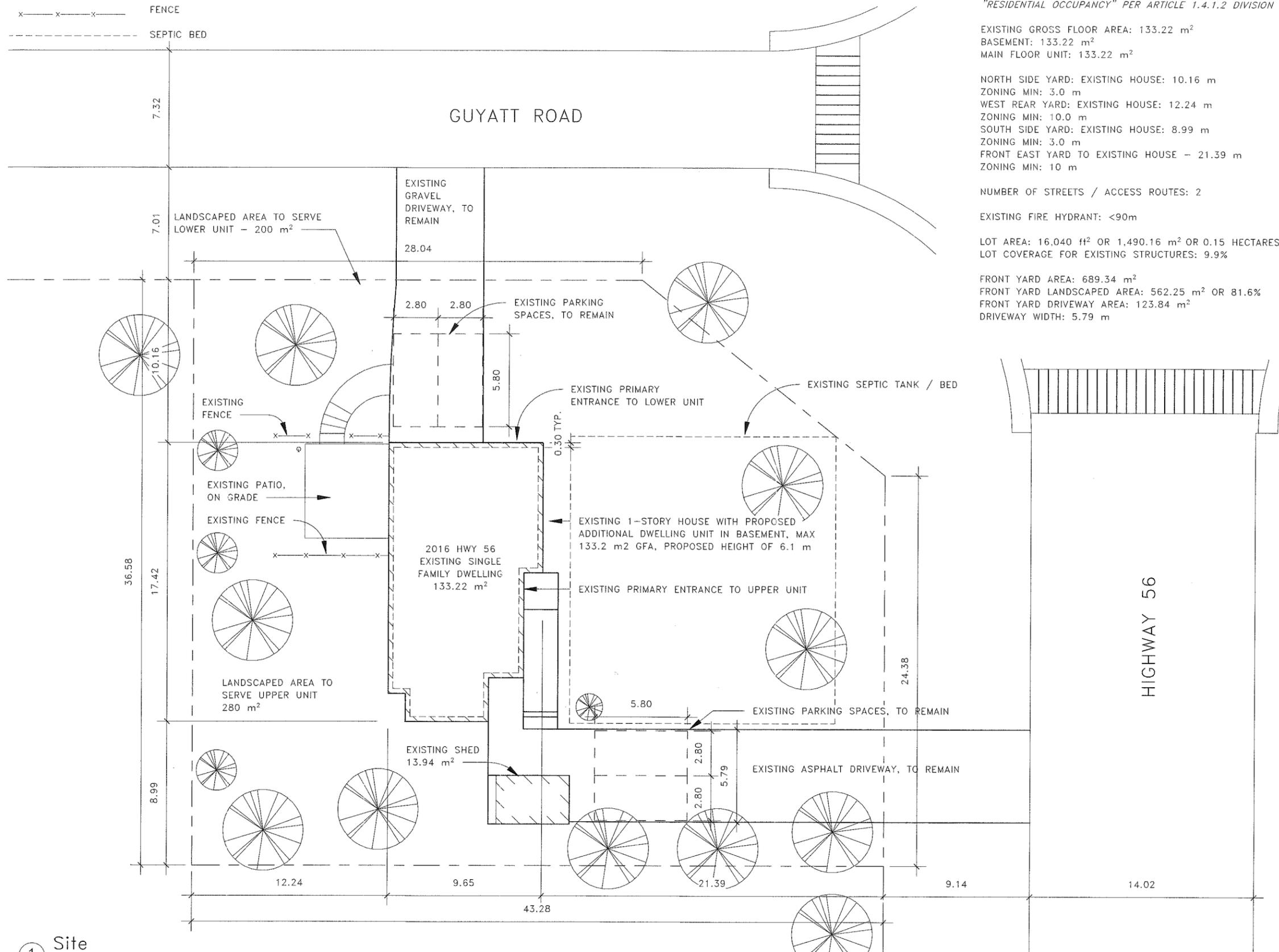
NORTH SIDE YARD: EXISTING HOUSE: 10.16 m
 ZONING MIN: 3.0 m
 WEST REAR YARD: EXISTING HOUSE: 12.24 m
 ZONING MIN: 10.0 m
 SOUTH SIDE YARD: EXISTING HOUSE: 8.99 m
 ZONING MIN: 3.0 m
 FRONT EAST YARD TO EXISTING HOUSE - 21.39 m
 ZONING MIN: 10 m

NUMBER OF STREETS / ACCESS ROUTES: 2

EXISTING FIRE HYDRANT: <90m

LOT AREA: 16,040 ft² OR 1,490.16 m² OR 0.15 HECTARES
 LOT COVERAGE FOR EXISTING STRUCTURES: 9.9%

FRONT YARD AREA: 689.34 m²
 FRONT YARD LANDSCAPED AREA: 562.25 m² OR 81.6%
 FRONT YARD DRIVEWAY AREA: 123.84 m²
 DRIVEWAY WIDTH: 5.79 m



REV.	DESCRIPTION	DATE

PROJECT NORTH
 TRUE NORTH

DO NOT SCALE DRAWING. DIMENSIONS ARE TO BE CHECKED AND VERIFIED BY THE CONTRACTOR ON SITE.
 ALL DRAWINGS, SPECIFICATIONS, AND RELATED DOCUMENTS ARE THE COPYRIGHT PROPERTY OF THE ARCHITECT AND MUST BE RETURNED UPON REQUEST. REPRODUCTION OF DRAWINGS, SPECIFICATIONS, AND RELATED DOCUMENTS IN WHOLE OR IN PART IS STRICTLY FORBIDDEN WITHOUT THE ARCHITECT'S WRITTEN PERMISSION.
 THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY INVAZU ARCHITECTS INC.

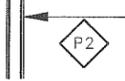
PROJECT NAME:	GELMS RESIDENCE
PROJECT ADDRESS:	2016 HWY 56
DRAWING TITLE:	SITE PLAN
DRWN:	JEN VANDERHERBERG
BCIN #:	122179
DATE:	10/12/23
SCALE:	3/64" = 1'-0"
DRAWING NO.:	A1

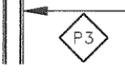
① Site
 3/64" = 1'-0"

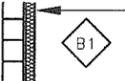
Jen Vally

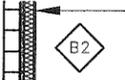
ASSEMBLIES

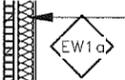
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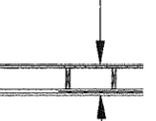
NEW PARTITION WALL ASSEMBLY (W4a SB-3):
 - EXISTING 15.9mm TYPE X DRYWALL
 - EXISTING 38mm x 89mm STUD WALL, 406mm O.C. c/w SAFE N' SOUND INSULATION (89mm)
 - NEW RESILIENT CHANNEL, 610mm O.C.
 - NEW 2 LAYERS OF 15.9mm TYPE 'X' GYPSUM DRYWALL, STAGGERED WITH JOINT COMPOUND APPLIED BOTH LAYERS
- 

EXISTING PARTITION WALL ASSEMBLY:
 - 15.9mm GYPSUM DRYWALL
 - 38mm x 89mm STUD WALL, 406mm O.C.
 - 15.9mm GYPSUM DRYWALL
- 

NEW PARTITION WALL ASSEMBLY:
 - 15.9mm GYPSUM DRYWALL
 - 38mm x 140mm STUD WALL, 16" O.C.
 - 15.9mm GYPSUM DRYWALL
- 

EXISTING EXTERIOR BASEMENT WALL ASSEMBLY:
 - EXISTING 235mm CMU BLOCK FOUNDATION WALL
 - EXISTING AIR BARRIER
 - EXISTING NEW 38mm x 89mm STUD WALLS, 406mm O.C. c/w MINERAL WOOL INSULATION
 - EXISTING 15.9mm GYPSUM DRYWALL
- 

NEW EXTERIOR LOAD BEARING WALL ASSEMBLY:
 - NEW 235mm CONCRETE BLOCK
 - 51mm XPS RIGID FOAM CONTINUOUS INSULATION
 - 38mm x 89mm STUDS, 406mm O.C. c/w R12 SPRAY FOAM INSULATION
 - 6 mm POLY VAPOUR BARRIER
 - 15.9mm GYPSUM DRYWALL
- 

EXISTING WALL ASSEMBLY:
 - EXISTING BRICK OR STONE VENEER
 - EXISTING AIR BARRIER
 - EXISTING SHEATHING
 - EXISTING 38mm x 89mm STUD WALLS, 406mm O.C. c/w BATT INSULATION
 - EXISTING VAPOUR BARRIER
 - EXISTING 15.9mm DRYWALL
- 

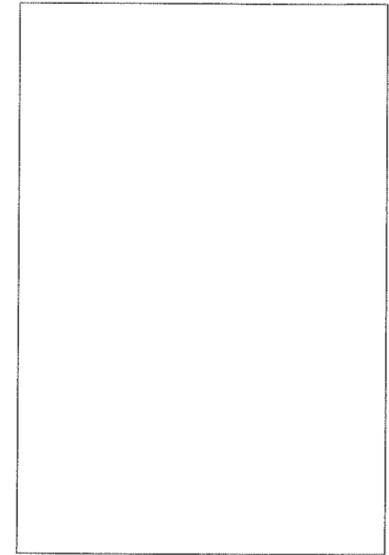
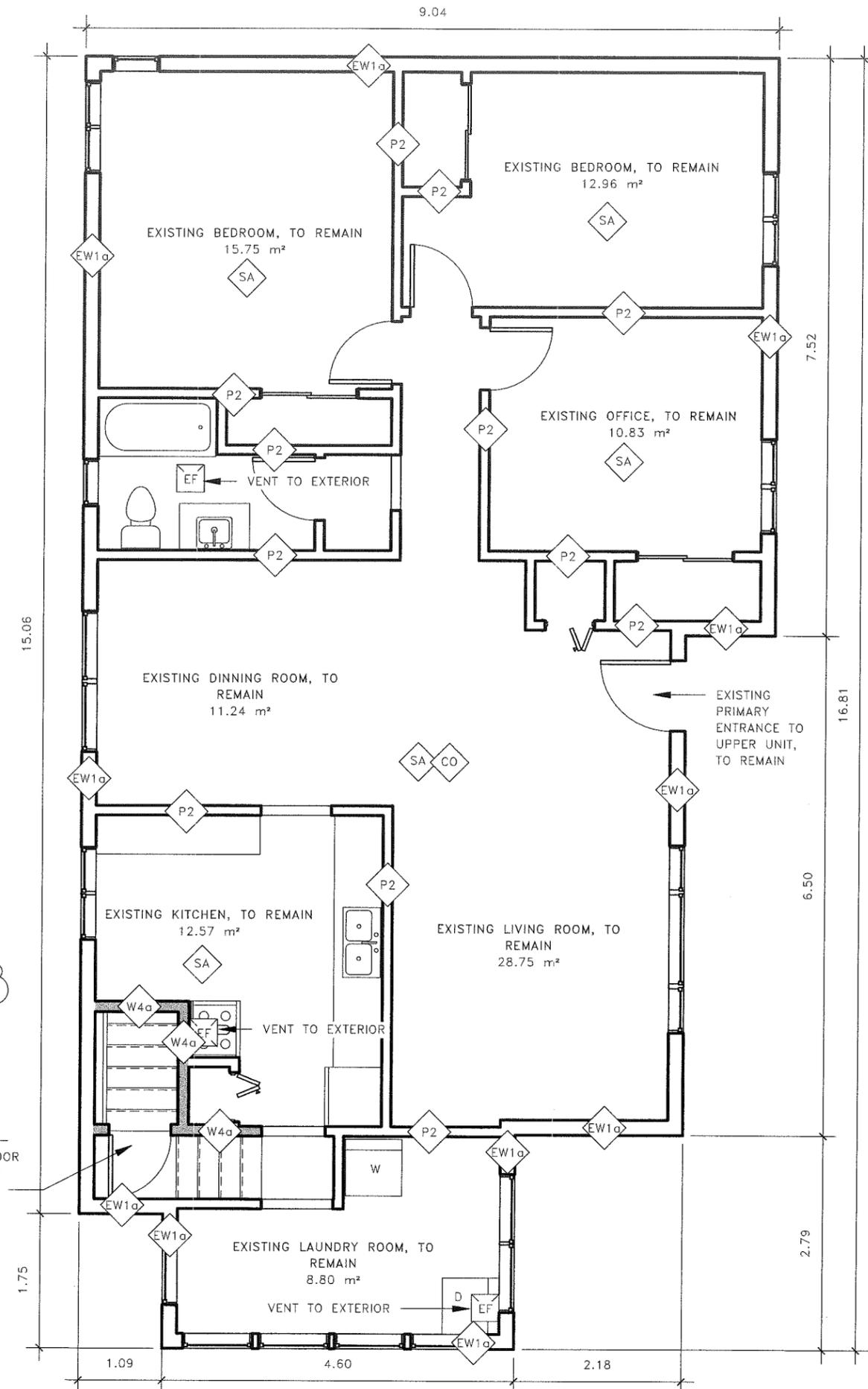
FLOOR ASSEMBLY (F7c SB-3):
 - EXISTING HARDWOOD FLOOR
 - EXISTING 19mm TONGUE AND GROOVE SUBFLOOR
 - EXISTING (TRUE) 38mm x 235mm JOISTS, 406mm O.C.
 - EXISTING LAYER OF 12.7mm TYPE X GYPSUM BOARD
 - (NEW) RESILIENT CHANNEL, 406mm o.c.
 - (NEW) LAYER OF 12.7mm TYPE X GYPSUM BOARD

NO PROPOSED STRUCTURAL CHANGES ON THIS LEVEL

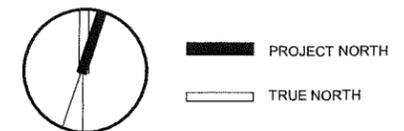
NOTES

- ADEQUATE ACCESS TO INTERNAL WATER METER MUST BE PROVIDED FOR MAINTENANCE
- COMBUSTION AIR REQUIRED IN MECHANICAL ROOM
- ALL SMOKE ALARMS TO CONFORM TO OBC 9.10.19
- SEPARATE WATER SHUT-OFF REQUIRED FOR EACH UNIT
- BACKWATER VALVE CAN NOT SERVE MORE THAN 1 UNIT
- SUPPORTING STRUCTURE BETWEEN UNITS TO HAVE SAME FRR AS THE FIRE SEPARATION OF THE UNIT ABOVE
- FIRE SEPARATION TO BE CONTINUOUS OVER WALLS
- OBC COMPLIANCE C136(a)

45-MINUTE FIRE-RATED STEEL DOOR TO CONFORM TO OBC 9.10.13.15



REV.	DESCRIPTION	DATE
1	Revision 1	Date 1



DO NOT SCALE DRAWING. DIMENSIONS ARE TO BE CHECKED AND VERIFIED BY THE CONTRACTOR ON SITE.
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 THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNLESS COUNTERSIGNED BY INVIZU ARCHITECTS INC.

PROJECT NAME:	GELMS RESIDENCE
PROJECT ADDRESS:	2016 HWY 56
DRAWING TITLE:	EXISTING MAIN FLOOR PLAN
DRWN:	JEN VANDERHERBERG
BCIN #:	122179
DATE:	10/11/23
SCALE:	1 : 70
DRAWING NO.:	A3

Jen Vally

December 18, 2023

Mitchell Gelms,
Email: mitchellgelms@gmail.com

RE: Septic System Appraisal
2016 Highway #56, Hamilton

Dear Mr. Gelms,

As per your request an on-site inspection was completed regarding the existing sewage system currently servicing the dwelling known as 2016 Highway #56, Hamilton.

Based upon information you provided, the existing dwelling unit has fixture units consisting of the following: 2 bathroom groups, 2 washing machines, 1 dishwasher and 2 kitchen sinks thus 19.5 fixture units in addition to three bedrooms. The existing Class 4 sewage system consists of a treatment tank (pumped in 2022 by Glanborough Pumping) which discharges to an in-ground tile disposal bed located to the east of the dwelling.

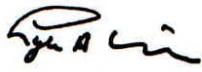
Water service is provided via a cistern storage tank with water purchased on a monthly basis or as may be needed. The volume of water delivery is 2000 gallons.

At the time of inspection, no visual evidence was observed of sewage effluent ponding on the ground surface or discharge to adjacent drainage swales, thus compliance with Section 8.9.1.2 General Requirements for Operation and Maintenance (Septic Systems), Ontario Building Code.

Please note the preceding is based upon visual observations at the time of inspection and does not guarantee the future functional capability of the sewage system. The conclusions presented in this report are based, in part, on visual observations of the site and attendant structures. Our conclusions cannot and are not extended to include those portions of the site or structures which were not reasonably available in Enviro-Check's opinions for direct observation.

We trust the preceding serves as requested; however, should additional information and/or clarification be required please contact the undersigned at 905-957-7541.

Yours truly,

 l.(c)

BCIN # 11112

/jk

Committee of Adjustment
 City Hall, 5th Floor,
 71 Main St. W.,
 Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221
 Email: cofa@hamilton.ca



Hamilton

APPLICATION FOR A MINOR VARIANCE/PERMISSION
 UNDER SECTION 45 OF THE PLANNING ACT

1. APPLICANT INFORMATION

	NAME	
Registered Owners(s)	Mitchell Grelms Elzo and Patricia Grelms	
Applicant(s)	Jen Vanderherberg	
Agent or Solicitor		
		Phone:
		E-mail:

1.2 All correspondence should be sent to
 Purchaser
 Applicant
 Owner
 Agent/Solicitor

1.3 Sign should be sent to
 Purchaser
 Applicant
 Owner
 Agent/Solicitor

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 be sent by email.

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	2016 Regional Road 56		
Assessment Roll Number			
Former Municipality	Glanbrook		
Lot		Concession	
Registered Plan Number		Lot(s)	
Reference Plan Number (s)		Part(s)	

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:

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:

To allow for a Secondary Dwelling Unit to be permitted within the existing house on an A1 zoned property less than 0.6 hectares in size.

Second Dwelling Unit Reconstruction of Existing Dwelling

3.2 Why it is not possible to comply with the provisions of the By-law?

The property parcel is 0.15 hectares in size, and the A1 bylaw states that it must be over 0.6 hectares to allow for a secondary dwelling unit within the existing house structure.

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

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
24.38 metres	43.28 metres	16,040 ft2 OR 0.15 hectares	14.02 metres

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
Primary Dwelling	21.39 m	12.24 m	8.99 (south) & 10.16 (north)	est. 1960
Shed	19.67 m	19.04 m	2.59 m	unknown

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
Primary Dwelling	133.22 m ²	149.65 m ²	1	4.94 m
Shed	13.94 m ²	13.94 m ²	1	3.66 m

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)

Privately owned cistern

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.):
Duplex Dwelling
- 4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):
Agricultural

7 HISTORY OF THE SUBJECT LAND

- 7.1 Date of acquisition of subject lands:
12/12/2019
- 7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
Detached Single Family Dwelling
- 7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
Single Family Dwelling
- 7.4 Length of time the existing uses of the subject property have continued:
- 7.5 What is the existing official plan designation of the subject land?
- Rural Hamilton Official Plan designation (if applicable): _____
- Rural Settlement Area: _____
- Urban Hamilton Official Plan designation (if applicable) _____

Please provide an explanation of how the application conforms with the Official Plan.

7.6 What is the existing zoning of the subject land? A1

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: _____

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: 2

8.3 Additional Information (please include separate sheet if needed):

Mitchell Gelms did renovations to the house without a building permit. They converted the garage into living area in the basement and put in a kitchen. Bylaw came by and issued a Stop Work Order as well as a fine for the work without a permit. They have been required to submit for Building Permits. They have not yet completed the renovation required to convert the dwelling into 2 legal separate units (fire separations). They are now required to apply for a minor variance to convert the house into a legal duplex dwelling as the zoning bylaw does not permit a secondary dwelling unit on an A1 zoned land less than 0.6 hectares in size.

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

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca



Hamilton

NOTICE OF DECISION
Minor Variance

APPLICATION NO.:	GL/A-24:09	SUBJECT PROPERTY:	2016 Regional Road 56, Glanbrook
ZONE:	A1 (Agriculture)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200

APPLICANTS: Owner: Mitchell Gelms, Elzo and Patricial Gelms
 Agent: Jen Vanderherberg

The following variances are **GRANTED**:

1. An additional dwelling unit within the A1 Zone shall be permitted on a lot that is 0.15 hectares in size instead of the minimum required lot area of 0.6 hectares.

Notes:

1. Please be advised the lands are subject to amending by-law 24-051, which are not yet final and binding.
2. The waste disposal and water supply shall be in accordance with Section 4.22 iii), as per amending by-law 24-051 not yet final and binding.

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.

GL/A-24:09

DATED AT HAMILTON, September 10, 2024.

D. Smith (Chairman)

N. Lauwers

D. Lord

R. Reid

S. Rybarczyk

M. Switzer

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **September 30, 2024 at 4:30pm**. 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.



Hamilton

APPEAL INFORMATION – MINOR VARIANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

2. When must an appeal be received to be considered?

Planning Act Section 45(12) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the Decision. Please see Notice of Decision for exact date and time.

3. Where must the appeal be filed to be considered?

Planning Act Section 45(12) appeals must be received in one of the following formats:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to cofa@hamilton.ca. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact cofa@hamilton.ca in advance to request a file sharing link.

E-file Portal: By filing an appeal through the OLT E-file Portal at <https://olt.gov.on.ca/e-file-service/> to Hamilton (City) – Committee of Adjustment and Consent Authority (select appropriate approval body as outlined on the Notice of Decision). Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly chosen approval authority will be time barred and of no effect.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of appeal, the appeal must be filed with one of the other two

options. Appeals received after the date of appeal as a result of one of the methods being unavailable will be time barred and of no effect.

4. What information must be submitted for the appeal to be considered?

Planning Act Section 45(12) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5th floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form or OLT E-file Portal;
- All other information as required by the Appeal Form.



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application B-24:42 and Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (PED25023) (Ward 13)
WARD AFFECTED:	Ward 13
PREPARED BY:	David Bonaventura (905) 546-2424 Ext. 3364
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Council gives approval to the following actions, as detailed in Report PED25023, respecting Committee of Adjustment Consent application B-24:42 and Minor Variance application A-24:171 submitted by The Angrish Group c/o Ruchika Angrish, on behalf of Phil and Marlene Elgersma (owners), for the lands located at 1248 Concession 6 West, Flamborough, as shown in Appendix "A" attached to Report PED25023, granted by the Committee of Adjustment and 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 B-24:42 and Minor Variance application A-24:171; and,
- (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 B-24:42 and Minor Variance application A-24:171.

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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 B-24:42 and Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (PED25023) (Ward 13) – Page 2 of 13

EXECUTIVE SUMMARY

The applicant, The Angrish Group c/o Ruchika Angrish, on behalf of Phil and Marlene Elgersma (owners), submitted Consent to Sever Land application B-24:42 and Minor Variance application A-24:171 to create a non-farm parcel for a surplus farm dwelling as the result of a non-abutting farm consolidation on lands municipally known as 1248 Concession 6 West, shown on the location map attached as Appendix “A” to Report PED25023. The applicants own and operate a farm nearby (954 Westover Road, Hamilton) with an existing habitable dwelling on the property that is included in the consolidated farm operation. Minor Variance application A-24:171 is seeking relief of the required minimum lot area for the retained lands.

The Consent application would result in the severed lands having an area of one hectare and are proposed to contain the existing single detached dwelling, barn structure, a frame shed and chicken coop, while the retained lands include the surrounding agricultural land and have an area of 28.58 hectares. The applicants submitted a Minor Variance application to permit a minimum lot area of 28 hectares for the retained lands whereas the Zoning By-law requires a minimum lot area of 40.4 hectares for agricultural purposes. The retained agricultural lands are part of a non-abutting farm consolidation that includes a 39 hectare farm operation, as a result the existing dwelling on the subject lands is considered surplus. However, staff are of the opinion that the proposed severance results in a 1.0 hectare parcel that is larger than the minimum area required to accommodate the single detached dwelling and private services. As a result, the proposed Consent to Sever Land application removes more land from agricultural production than is necessary.

The Committee of Adjustment granted approval of Consent application B-24:42 and Minor Variance application A-24:171 at the August 20, 2024, hearing without the recommended conditions identified by Source Protection Planning staff (refer to Appendix “B” attached to Report PED25023).

Planning staff recommended that the Consent to Sever and Minor Variance applications be tabled at the August 20, 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 PED24196 for staff comments). Staff requested the applications be tabled to provide additional time for staff to work with the applicant to address the policy concerns related to the application as submitted, which included reducing the proposed severed lot area.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application B-24:42 and Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (PED25023) (Ward 13) – Page 3 of 13

On September 9, 2024, Development Planning staff appealed the decision of the Committee of Adjustment to the Ontario Land Tribunal. A hearing date has not yet been set.

Alternatives for Consideration – See Page 12

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

On July 19, 2024, the applicant, The Angrish Group c/o Ruchika Angrish, on behalf of Phil and Marlene Elgersma (owners), submitted concurrent Consent to Sever Land application B-24:42 and Minor Variance application A-24:171 to permit the severance of a surplus farm dwelling as a result of a non-abutting farm consolidation and to seek relief of the minimum lot area for the retained lands proposed for agricultural purposes, on lands municipally known as 1248 Concession 6 West in Flamborough, shown on the location map attached as Appendix “A” to Report PED24196.

The effect of the applications would permit the severance of a surplus farm dwelling parcel containing an existing dwelling, barn structure, frame shed and chicken coop. The severed lands identified as “Lands to be Severed” on the submitted Severance Sketch attached as Appendix “C” to Report PED25023 have a frontage of 50.71 metres and lot area of one hectare. The retained lands, identified as “Lands to be Retained” on the submitted Severance Sketch, have a frontage of 300 metres and lot area of 28.58 hectares. The retained lands include the surrounding land, intended to be utilized for agricultural purposes, do not conform to the required minimum lot area of 40.4 hectares for agricultural uses within the Agricultural (A1) Zone.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application B-24:42 and Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (PED25023) (Ward 13) – Page 4 of 13

Staff comments recommended the Consent to Sever and Minor Variance applications be tabled as the proposal did not have sufficient regard for Sections 51(24) and 45(1) of the *Planning Act*, Provincial Planning Statement, 2020 and 2024, and did not comply with the policies of the Rural Hamilton Official Plan (see Appendix “B” attached to Report PED25023). While the lands to be retained as part of a non-abutting farm consolidation do not meet the minimum land size threshold of 40.1 hectares for agricultural purposes, staff took issue with the 1.0 hectare size of the severed parcel as it is larger than the minimum lot area required for such severances and includes farm buildings which are not suitable to be used as accessory structures to a residential use. Staff requested additional time to work with the applicant to ensure the severed parcel did not remove excess land from the retained agricultural land than was necessary, in accordance with City policies, for the provision of private servicing. The Committee of Adjustment granted approval of Consent to Sever and Minor Variance applications B-24:42 and A-24:171 on August 20, 2024, without the recommended conditions in the staff report. The Committee of Adjustment did not impose Source Protection Planning staff’s recommended condition to ensure the long term sustainability of the ground water. Please refer to the Decision attached as Appendix “B” to Report PED25023.

Under the *Planning Act*, Consent appeals must be filed within 20 days of the date of giving notice of the decision while Minor Variance appeals must be filed within 20 days of the date of decision. As such on September 9, 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,

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent Application B-24:42 and Minor Variance Application A-24:171 for Lands Located at 1248 Concession 6 West, Flamborough (PED25023) (Ward 13) – Page 5 of 13

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 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;
- (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.”

Through the review of the submitted Consent application, staff noted that the retention of the agricultural buildings on the severed surplus farm dwelling lands, as well as the size and depth of the severed lands, do not comply with the policies of the Rural

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Hamilton Official Plan regarding surplus farm dwelling severances. The policies require that the lot size proposed be the minimum size required to accommodate the proposed residential use and private servicing and generally not exceed a maximum lot depth of 122 metres (400 feet). Staff note that the condition recommended by Source Protection Planning, to require a scoped hydrogeological study was intended to ensure the severed lands could meet the private water servicing policies of the Rural Hamilton Official Plan, was removed from the conditions of approval for Consent to Sever application B-24:42 by the Committee of Adjustment. 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*.

Minor Variance application A-24:171 would facilitate the removal of additional agricultural land from a farming operation that could support agricultural production. As submitted, the proposed minor variance does not meet the intent of the Rural Hamilton Official Plan nor City of Hamilton Zoning By-law No. 05-200.

Provincial Policy Framework

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Planning Statement (2020).

It is noted that the Provincial Planning Statement (2024) came into effect, and the Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe were repealed, on October 20, 2024. Any decisions made on or after October 20, 2024, shall be consistent with the new Provincial Planning Statement. As the decision of the Committee of Adjustment was made prior to this effective date, the policies of the Provincial Policy Statement apply.

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.

Section 4.6.1 f) of the Greenbelt Plan (2017) permits the severance of a residence surplus to a farming operation as a result of a farm consolidation if the severance is limited to the minimum size needed to accommodate the residential use and appropriate sewage and water services. Staff are of the opinion that the severed lot is larger than the minimum required to accommodate the single detached dwelling and

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private services. As a result, the proposed Consent to Sever application removes more land from agricultural production than is necessary for the proposed residential use.

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;
 - 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.1.14.2.8. An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided all of the following conditions are met:

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- a) In all cases where surplus farm dwellings are to be severed the following shall apply:
- i) The farm consolidation shall have been completed prior to the time of application.
 - ii) The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is surplus to the needs of the farm consolidation. Farm dwellings that have been determined to be surplus to a farm operation prior to December 16, 2004, and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.
 - iii) The proposed surplus farm dwelling:
 - 1. shall have been built on or before December 16, 2004; and,
 - 2. shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
 - iv) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
 - v) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
 - vi) The shape and dimensions of the surplus farm dwelling lot shall:
 - 1. Not impair agricultural operations on the retained land; and,

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2. Generally not exceed a depth of 122 metres (400 feet);
- vii) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.
 - viii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.
- c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:
- i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation;
 - ii) The parcels of land comprising the consolidated farm operation shall generally be a minimum of 38.4 hectares (95 acres) in total in the Agriculture and Rural designations and 14.2 hectares (35 acres) in the Speciality Crop designation; (OPA 30)
 - iii) The parcel of land from which the surplus dwelling is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Speciality Crop in Schedule D – Rural Land Use Designations or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations;
 - iv) Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:
 1. The landowner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or

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2. The landowner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit. If the landowner grants a restrictive covenant in favour to the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.

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)

- a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or proposed private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the proponent does not agree with the City's calculations, the proponent shall be required to submit a hydrogeological study report completed in accordance with Section F.3.2.5 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as maybe approved or amended from time to time.(OPA 23)
- b) Any information submitted, or study required in Policy C.5.1.1 a) shall be completed to the satisfaction of the City in accordance with Section F. 3. 2.5 of this Plan and Hydrogeological Study Guidelines as may be amended from time to time. The City may request or conduct a peer review of the study or servicing information, which shall be completed by an agency or professional consultant acceptable to the City and retained by the City at the applicant's expense. (OPA 23)
- e) The private water supply and sewage disposal systems shall be capable of sustaining the proposed and existing uses within acceptable levels of on-site and off-site water quantity and quality impacts, including nitrate impact;

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- g) The existing or proposed water supply system shall include a well with sufficient quantity of water and with potable water supply to sustain the use. A cistern system that meets current accepted standards, may, to the satisfaction of the City, be an additional component of the water supply system. (OPA 26)”

Policy F.1.14.2.8 of the Rural Hamilton Official Plan provides the criteria with which to evaluate proposed surplus farm dwelling severances as a result of non-abutting farm consolidations. Staff note that the proposed severance does not comply with several of the criteria found in Policy F.1.14.2.8. Specifically, in the absence of any justification for the 1.0 hectare lot size from a hydrogeological perspective, the proposed severance: removes more land from agricultural production than is necessary (F.1.14.2.8 a) iv)) as the proposed severed lands exceeds the minimum lot size required to accommodate the use; as well as the maximum lot depth of 122 metres (F.1.14.2.8 a) vi)), and; includes farm buildings as accessory to the residential use (F.1.14.2.8 a) vii)). In staff's opinion, there is an opportunity to readjust the lot lines to reduce the size of the severed parcel, subject to the necessary hydro geological investigation being undertaken. In addition, the applicant has not demonstrated that the private water supply on the subject lands complies with Section C.5.1 (F.1.14.2.8 a) v)).

Source Protection Planning staff comments noted that there are no concerns regarding private wastewater servicing as no new dwellings or expansion of the existing dwelling are proposed. A lot size of 1 hectare is considered sufficient from a private wastewater service perspective. However, Source Protection Planning staff recommended a condition of approval requiring the submission of a Scoped Hydrogeological Report completed by a qualified professional (P.Eng, P.Geo) prepared in accordance with the City of Hamilton Guidelines for Hydrogeological Studies and Technical Standards for Private Servicing. The purpose of the study is to demonstrate the sustainability of the applicant's private water supply and could result in informing the lot size and shape. The condition was recommended as Condition #7, as shown in Appendix “B” attached to Report PED25023 since the investigation of the sustainability of the private services was not completed at the time of the submission of the applications. However, the condition was not included as a condition of approval of the Committee of Adjustment, as shown in Appendix “D” attached to Report PED25023.

As such, staff are of the opinion that the Consent to Sever application does not maintain the general intent of the Rural Hamilton Official Plan as it does not comply with policies regarding the severance of a surplus farm dwelling as the result of a non-abutting farm consolidation. The recommended Condition #7 was not included in the conditions of approval applied by the Committee of Adjustment; therefore, the applicant has not

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demonstrated that the proposal meets the requirements regarding sustainable private water services found in Section C.5.1.

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

The subject lands are zoned Agriculture (A1) Zone and Conservation / Hazard Land - Rural (P6) Zone. Staff note that the minimum lot area for agricultural uses within the Agriculture (A1) Zone is 40.4 hectares. The proposed retained land, being 28.58 hectares in area, does not meet this requirement. Minor Variance application A-24:171 was submitted to seek relief from the minimum lot area of the retained lands.

RELEVANT CONSULTATION

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

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The proposed Consent and associated Minor Variance applications do not have regard for the criteria of Section 51(24) and Section 45(1) of the *Planning Act* on the basis that the proposal negatively affects matters of provincial interest by further fragmenting agricultural lands and does not demonstrate that the existing private water supply of the severed lands can sustainably and safely support the residential use. Staff are also of the opinion that the proposal does not comply with the policies of the Rural Hamilton Official Plan related to surplus farm dwelling severances, and does not provide adequate services, as demonstrated through the policy analysis above. Staff note that the Committee of Adjustment did not include staff's recommended Condition #7 in the approval.

Based on the foregoing, it is appropriate for the City to appeal the Committee of Adjustment's approval of Consent to Sever application B-24:42 and Minor Variance application A-24:171 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.

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED25023 – Location Map

Appendix “B” to Report PED25023 – Staff Comments for FL/B-23:82 and FL/A-23:312

Appendix “C” to Report PED25023 – Severance Sketch

Appendix “D” to Report PED25023 – FL/B-23:82 and FL/A-23:312 Committee of Adjustment Decisions

Appendix “E” to Report PED25023 – FL/B-23:82 Consent Application

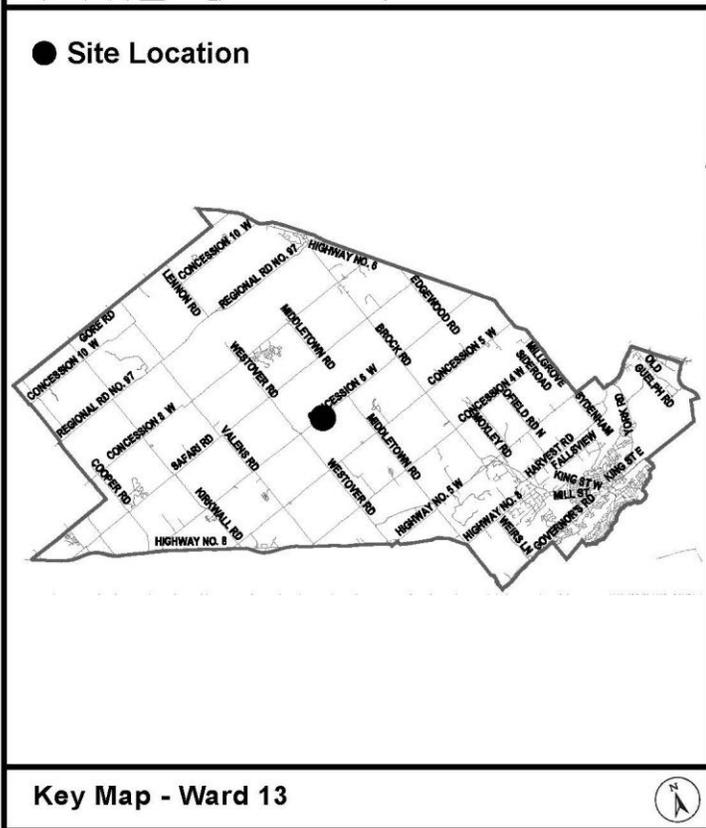
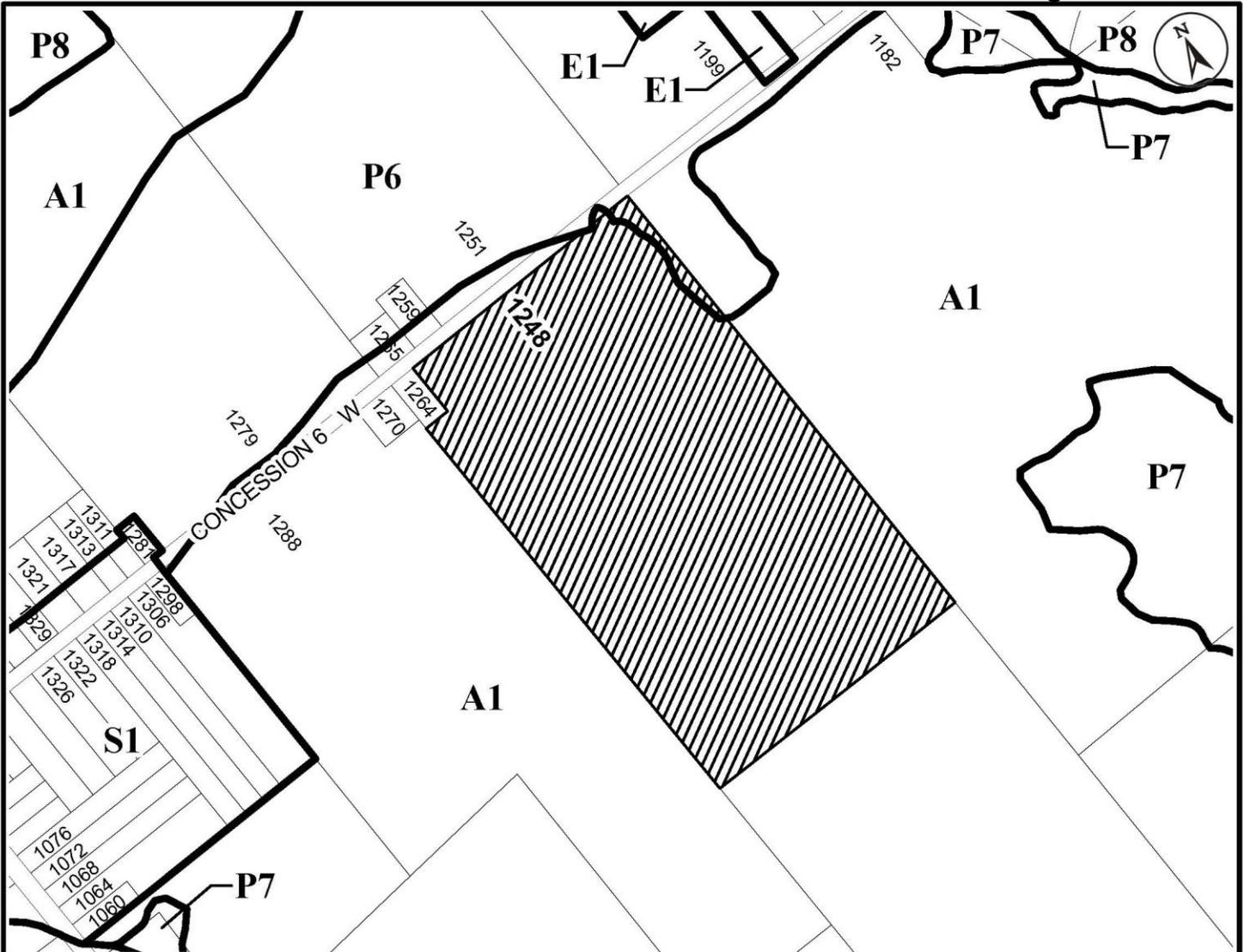
Appendix “F” to Report PED25023 – FL/A-23:312 Minor Variance Application

DB/mb

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<h1>Location Map</h1>		 Hamilton
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: 1248 Concession 6 w	Date: September 17, 2024	
Appendix "A"	Scale: N.T.S	Planner/Technician: DB/AL
<p>Subject Property</p> <p> 1248 Concession 6 West</p>		

B-24:42 – 1248 Concession 6 West, Flamborough

Recommendation:

Table

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 –Plan Examination Section).
5. 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 – Plan Examination Section).
6. Transportation Planning can support the Severance if the following right-of-way dedication is provided to the City of Hamilton:

Concession 6 West is a Collector Road and require a right-of-way of 36 metres. The Council Approved Rural Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads shall be 36 metres. The existing right-of-way is approximately 20 metres and approximately ± 8 metres are to be dedicated to the right-of-way on Concession 6 West.

a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening.

- b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.
- c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
- 7. The applicant shall submit a Scoped Hydrogeological Report to the satisfaction of Director, Hamilton Water completed by a qualified professional (P.Eng., P.Geo.).
- 8. The Owner shall apply for and receive final approval to rezone the farm parcel (retained lands) to prohibit the construction of a dwelling unit, to the satisfaction of the Director of Development Planning.
- 9. The owner/applicant 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).
- 10. The owner/applicant shall submit survey evidence that the **lands to be severed and the lands to be retained**, including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).

Proposed Notes:

- 1. We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.
- 2. Please be advised zoning is unable to determine if the proposal complies to Section 4.8.1.2 b) Gross Floor Area for accessory buildings and Section 5 – Parking as there was not enough details on the site plan, additional variances may be required.
- 3. Variances written as requested by the applicant.

Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS:	50.71 m±	171.2 m±	1 ha±
RETAINED LANDS:	300 m±	715 m±	28.58 ha±

The purpose of Consent application B-24:42 is to permit the conveyance of a surplus farm dwelling lot containing an existing dwelling for residential purposes and to retain a parcel of land for agricultural purposes. Staff note that Minor Variance application A-24:171 is a concurrent application to facilitate the proposed severance.

Analysis

Greenbelt Plan

The subject lands are designated as “Protected Countryside” and “Greenbelt Natural Heritage System” under the Greenbelt Plan. Section 4.6.1 f) of the Greenbelt Plan states the following:

- f) The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:
 - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and
 - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.

Rural Hamilton Official Plan

The subject lands are designated “Agriculture” in Schedule D - Rural Land Use Designations of the Rural Hamilton Official Plan. The subject lands are identified as “Protected Countryside” in Schedule A – Provincial Plans of the Rural Hamilton Official Plan. The subject lands are further identified as “Greenbelt Protected Countryside” and “Greenbelt Natural Heritage System”, and Core Areas have been identified on and adjacent to the subject lands on Schedule B – Natural Heritage System of the Rural Hamilton Official Plan. These Core Areas have been identified as significant woodlands and wetland. Policies C.1.2.3, C.5.1, D.2.1, F.1.14.2.1 and F.1.14.2.8, amongst others, are applicable and permit the existing agricultural use.

Staff defer to Natural Heritage staff regarding Natural Heritage concerns and to Source Protection staff regarding the private servicing requirements of Section C.5.1.

Policy F.1.14.2.8 a) and c) state the following:

"F.1.14.2.8. An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided all of the following conditions are met:

a) In all cases where surplus farm dwellings are to be severed the following shall apply:

- i. The farm consolidation shall have been completed prior to the time of application.
- ii. The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is surplus to the needs of the farm consolidation. Farm dwellings that have been determined to be surplus to a farm operation prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.
- iii. The proposed surplus farm dwelling:
 - 1) shall have been built on or before December 16, 2004; and,
 - 2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
- iv. The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
- v. A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
- vi. The shape and dimensions of the surplus farm dwelling lot shall:
 1. Not impair agricultural operations on the retained land; and,
 2. Generally not exceed a depth of 122 metres (400 feet);
- vii. The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.
- viii. Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.

c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:

- i. The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation;
- ii. The parcels of land comprising the consolidated farm operation shall generally be a minimum of 38.4 hectares (95 acres) in total in the Agriculture and Rural designations and 14.2 hectares (35 acres) in the Speciality Crop designation; (OPA 30)
- iii. The parcel of land from which the surplus dwelling is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Speciality Crop in Schedule D – Rural Land Use Designations or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations;
- iv. Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:
 1. The land owner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or
 2. The land owner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit. If the land owner grants a restrictive covenant in favour to the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.

Staff note that the proposed severed lands exceed the required minimum 0.4 hectare lot size for the surplus farm dwelling lot and also exceed the 122 metre depth identified in Policy F.1.14.2.8 a) vi).

Staff further note that a Minimum Distance Separation (MDS) Report prepared by Soil Solutions Plus was submitted in support of this application. In this report, Soil Solutions Plus notes that the existing small brick shed, which serves as a small chicken coop, is below 10 square metres in size and the capacity of the structure is below the flock size of Poultry Quota requirements and below the 5 Nutrient Unit minimum for the *Nutrient Management Act*. In discussing the existing barn structure, the report is generally of the opinion that due to the barn's poor state of repair and the cost and infeasibility of repair, the structure is no longer structurally or reasonably capable for housing livestock and is not subject to MDS requirements. The report also notes that it is currently used for storage purposes. Further discussions are required with the applicant regarding the existing coop as modifications or demolition of the building may be required

Per Policy F.1.14.2.1 e), all proposed severances and lot additions are required to meet Minimum Distance Separation requirements in accordance with Section F.1.16, Minimum Distance Separation I and II and the Zoning By-law. In discussing neighbouring livestock operations, the report states that 1182 and 1199 Concession 6 West warranted MDS I calculations, whereas 1251, 1279 and 1288 Concession 6 West did not. The included MDS I sketch attached to the report shows that the subject

lands (1248 Concession 6 West) are well outside of any setback concerns from the active livestock operations at 1182 and 1199 Concession 6 West. Therefore, staff are of the opinion that the conclusions of the report demonstrate that the RHOP policies are satisfied.

However, staff note that Policy F.1.14.2.8 a) vii) does not permit the severed farm dwelling lot to include agricultural buildings or retain agricultural structures as accessory structures and Policy F.1.14.2.8 a) viii) states that staff may require any such farm buildings nearby the dwelling to be demolished or removed.

As discussed in the Planning Justification Report prepared by The Angrist Group submitted with this application, the subject surplus farm dwelling was constructed in 1878 and photographs depicting the livable conditions of the dwelling are shown in Figure 7 of the Planning Justification Report.

Staff note that this application is the result of a non-abutting farm consolidation, where the non-abutting lands are approximately 39 hectares in size and the proposed retained lands are 28.58 hectares in size. This exceeds the minimum required lot areas identified in Policy F.1.14.2.8 c) where an overall minimum size of 38.4 hectares for the consolidated farm operation and a minimum of 16.2 hectares for the proposed retained lands is achieved.

Policy F.1.14.2.8 c) iv) requires that prior to granting of final consent, either a restrictive covenant be granted in favour of the City or that the land owner apply for and receive final approval of a Zoning By-law Amendment to prohibit the construction of a dwelling unit. Staff are recommending a condition of approval that a Zoning By-law Amendment be applied for and receive final approval, in accordance with F.1.14.2.8 c) iv) 1.

In summary, staff have concerns regarding the size and depth of the surplus farm dwelling lot and the inclusion of farm buildings on the lot. Staff cannot support this severance application at this time and request revisions to the proposal to address staff's concerns.

Based upon review of the above policies and the materials provided in support of this severance application, staff are requesting this consent application be tabled to provide staff an opportunity to work with the applicant to address staff's concerns. **Staff recommend the proposed severance be tabled.**

Natural Heritage

The subject property is located within the boundaries of the Rural Hamilton Official Plan and has been identified within the Greenbelt Protected Countryside. Core Areas have been identified within and adjacent to the subject property. These areas have been identified as Significant Woodlands and wetland.

Based on Policy C.2.3.3 of the Rural Hamilton Official Plan, any development or site alteration within or adjacent to Core Areas shall not negatively impact their environmental features or ecological

functions. Since the proposed severance will not fragment the Core Areas, it is anticipated that there will be no further negative impacts.

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

The subject lands are zoned Agriculture (A1) Zone and Conservation/Hazard Land – Rural (P6) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling and agricultural uses are permitted. The severed lands are proposed to have a frontage of 50.71 metres and an area of 1 hectare. The retained lands are proposed to have a frontage of 300 metres and an area of 28.58 hectares. The proposed severed lands would exceed the 30-metre frontage and 0.4 hectare minimum size requirements for a single detached dwelling. The proposed retained lands would not meet the minimum required lot size of 40.4 hectares for agricultural uses. Staff note Minor Variance application A-24:171 was submitted to address this non-conformity.

Variance 1

1. A minimum lot area of 28 hectares shall be permitted instead of the 40.4 hectares required.

The intent of this provision is to ensure agricultural lots are of a minimum size for farm operations to be economically viable.

Staff note that the proposed severance is the result of a non-abutting farm consolidation with the non-abutting lands being approximately 39 hectares in size, in addition to the 28.58 hectares of the proposed retained lands.

Staff recommend this minor variance application be tabled until such time that staff concerns regarding Consent Application B-24:42 are addressed. **Staff recommend this application be tabled.**

Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	1. The owner/applicant 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). 2. The owner/applicant shall submit survey evidence that the lands to be severed and the lands to be retained , including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).

<p>Comments:</p>	<p>1. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Legislated Approvals and Staging of Development Section of the Planning and Economic Development Department prior to the issuance of a building permit.</p> <p>2. No dimensions for the existing parking have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance.</p> <p>3. The appropriate Planning Act approvals [lot area] will be required for zoning compliance of the lands to be conveyed/retained.</p> <p>4. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</p>
<p>Proposed Notes:</p>	<p>i) Please be advised zoning is unable to determine if the proposal complies to Section 4.8.1.2 b) Gross Floor Area for accessory buildings and Section 5 – Parking as there was not enough details on the site plan, additional variances may be required.</p> <p>ii) Variances written as requested by the applicant.</p>

Development Engineering:

<p>Recommendation:</p>	<p>Comments Only</p>
<p>Proposed Conditions:</p>	<p>N/A</p>
<p>Comments:</p>	<p>Provided there are no proposed alterations or additions with respect to servicing, buildings / structures or foundations and the existing drainage patterns are maintained with no adverse impacts to the adjacent lands, then Development Engineering has no comments regarding the Consent Application as proposed.</p>
<p>Proposed Notes:</p>	<p>N/A</p>

Building Engineering:

<p>Recommendation:</p>	<p>Comments and Conditions / Notes</p>
<p>Proposed Conditions:</p>	<p>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 –Plan Examination Section).</p>

	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 –Plan Examination Section).
Comments:	
Proposed Notes:	<p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p> <p>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>

Transportation Planning:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>Transportation Planning can support the Severance if the following right-of-way dedication is provided to the City of Hamilton:</p> <p>Concession 6 West is a Collector Road and require a right-of-way of 36 metres. The Council Approved Rural Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads shall be 36 metres. The existing right-of-way is approximately 20 metres and approximately ±8 metres are to be dedicated to the right-of-way on Concession 6 West.</p> <ol style="list-style-type: none"> a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening. b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements. c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
Comments:	
Proposed Notes:	

Forestry:

Recommendation:	Approve
Proposed Conditions:	No conditions required.
Comments:	There are no public tree assets impacted by the proposed conveyance.
Proposed Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	The lands to be conveyed (Part 1) will remain as 1248 Concession 6 West (Flamborough). The lands to be retained will be assigned the address of 1256 Concession 6 West (Flamborough).
Proposed Notes:	We ask 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.

Watershed Management:

Recommendation:	Approve with Conditions
Proposed Conditions:	
Comments:	Source Protection Planning understands the applicant is seeking to sever the lands at 1248 Concession 6 West, with the severed lot being 1 ha to be used as a surplus farm dwelling, and the retained lot being 28.58 ha for agricultural purposes. We also understand that the applicant does not include the construction of any new dwellings or increase the size of the existing dwelling on each parcel at this time. Given the proposed severance is 1 ha for one residential dwelling, Source Protection Planning has no concerns on the proposed severance. As a result, as a condition of approval to the satisfaction of Director, Hamilton Water, the applicant shall submit 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

	<p>(link: https://www.hamilton.ca/sites/default/files/2022-09/pedpolicies-guidelines-hydrogeological-studies.pdf).</p> <p>Scope of work would include but not necessarily limited to:</p> <ol style="list-style-type: none"> 1. It is understood that 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 improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: https://www.ontario.ca/page/find-licenced-well-contractors 2. 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, and metals, E. coli, total coliforms. Find licensed laboratories here: https://www.ontario.ca/page/list-licensed-laboratories 3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.
Proposed Notes:	

August 20, 2024 - CoA - HCA Comments for B-24:42 and A-24:171 for 1248 Concession 6 W, Flamborough

Jeff Tweedle <jtweedle@conservationhamilton.ca>

Tue 8/13/2024 10:26 AM

To:Committee of adjustment <cofa@hamilton.ca>

External Email: Use caution with links and attachments

Good morning,

The Hamilton Conservation Authority (HCA) has reviewed the Committee of Adjustment Agenda for August 30, 2024 in accordance with HCA's responsibilities under the *Conservation Authorities Act* relating to provincial interests for natural hazards and offer the following comments for B-24:42 and A-24:171 for 1248 Concession 6 W, Flamborough.

B-24:42 & A-24:171 – 1248 Concession 6 W, Flamborough

The subject property is approximately 29.46 ha (72.79 ac) in size and located within the Upper Spencer Creek and Westover Creek sub-watersheds, which form part of the larger Spencer Creek watershed and drain to Cootes Paradise. A wetland feature is located in the north-east corner of the subject property and on the adjacent lands to the east. This wetland feature forms the headwaters of a tributary of Upper Spencer Creek.

Based on a review of the submitted materials the lands to be severed are located entirely outside of the wetland feature and away from any natural hazard areas. Further, no site alteration or construction are proposed as part of the consent and minor variance application. HCA is satisfied the application is consistent with the natural hazard policies of the PPS and staff have no objections to the municipality granting the requested consent and minor variance.

The north-east portion of the property is regulated by HCA pursuant to the *Conservation Authorities Act* and *Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits)*. The regulated area is associated with the potential flooding and erosion hazards produced by the wetland feature and tributary of Upper Spencer Creek. The requested consent and associated minor variance do not meet the definition of development under the *Conservation Authorities Act* and do not require written permission from HCA. Any future development or site alteration in the north-east portion of the subject site may required written permission from HCA.

Please contact the undersigned if there are any questions regarding the provided comments.

The will be no fee for HCA's comments on this file.

Regards,

Jeff Tweedle

Conservation Planner

Hamilton Conservation Authority

838 Mineral Springs Road, P.O. Box 81067

Ancaster, ON L9G 4X1

Phone: 905-525-2181 Ext. 164

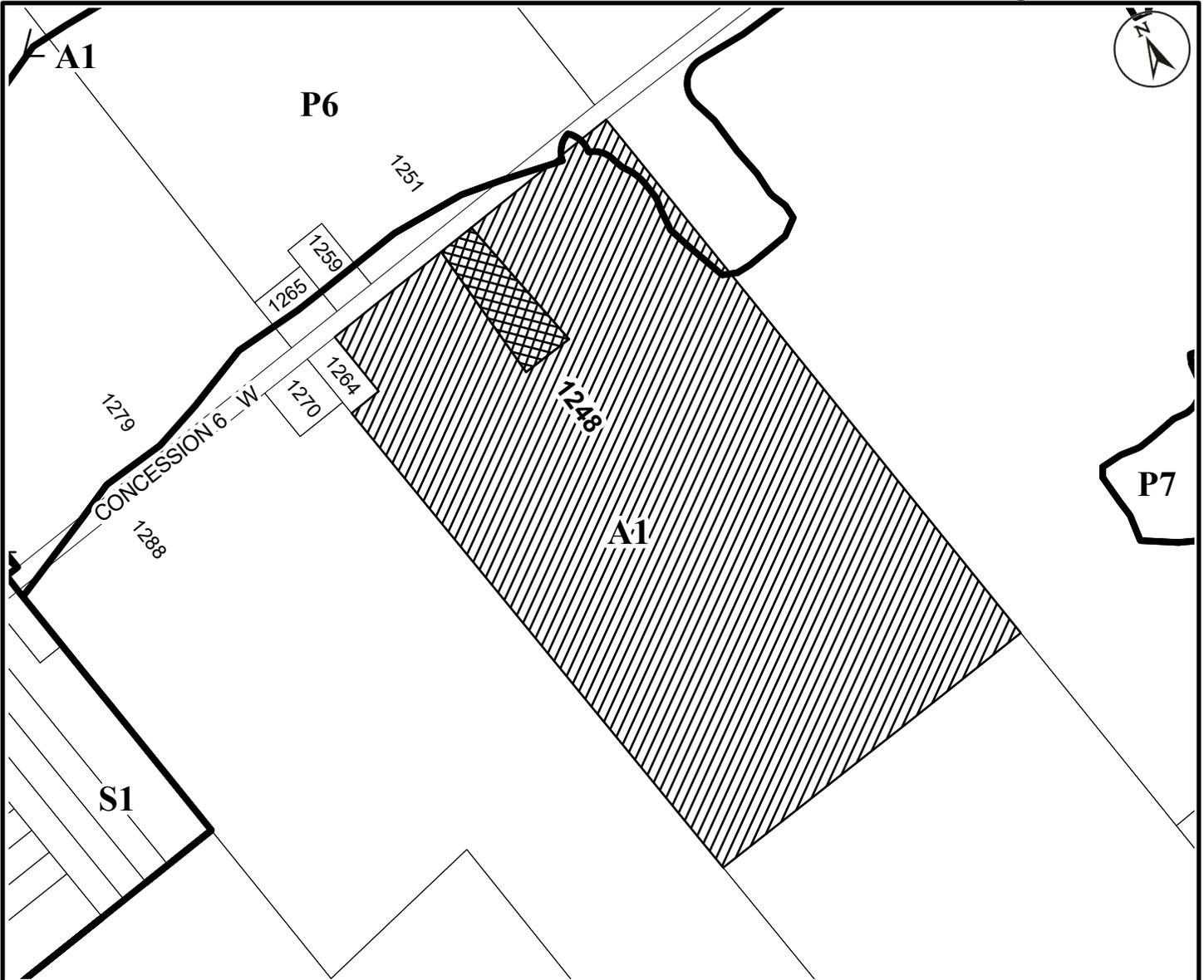
Email: jtweedle@conservationhamilton.ca

www.conservationhamilton.ca

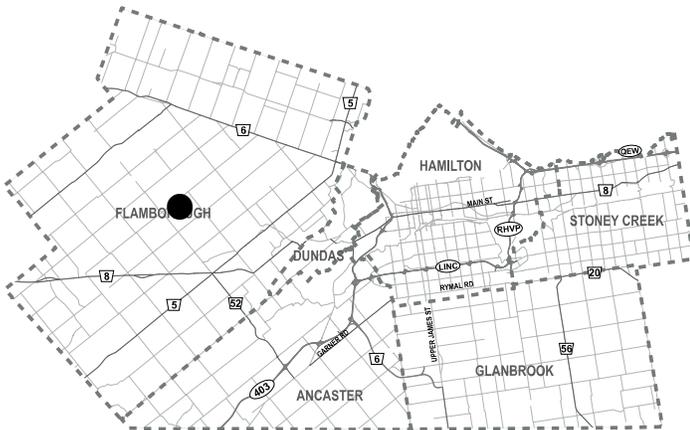


A Healthy Watershed for Everyone

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● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

1248 Concession 6 West, Flamborough
 (Ward 13)

-  Lands to be Retained
-  Lands to be Severed

File Name/Number:
 B-24:42

Date:
 August 9, 2024

Technician:
 NB

Map Not To Scale

Appendix "A"

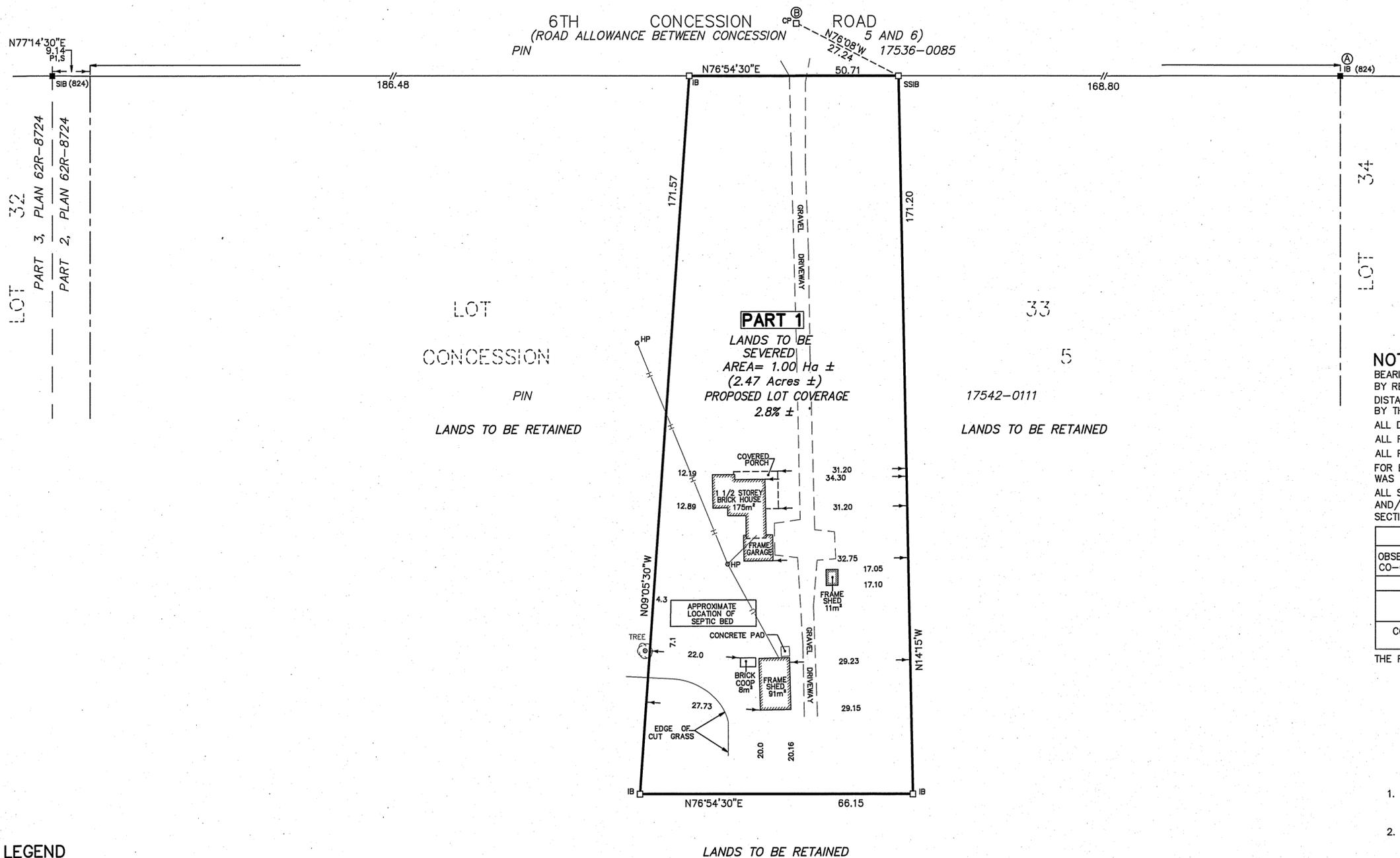


Hamilton

METRIC
DISTANCES AND CO-ORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

SCHEDULE				
PART	LOT	CONCESSION	PIN	AREA IN HECTARES
1	PART OF 33	5	17542-0111	1.00

PART 1 COMPRISES PART OF PIN 17542-0111.



PLAN OF SURVEY OF PART OF LOT 33 CONCESSION 5
(GEOGRAPHIC TOWNSHIP OF BEVERLY)
NOW IN THE TOWN OF FLAMBOROUGH
CITY OF HAMILTON
SCALE 1:750

0 25 50 75 METRES

THE INTENDED PLOT SIZE OF THIS PLAN IS 609mm IN WIDTH BY 457mm IN HEIGHT WHEN PLOTTED AT A SCALE OF 1:750

MacAULAY, WHITE & MUIR LTD.

NOTE:
BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B BY REAL TIME NETWORK OBSERVATION, UTM ZONE 17, NAD83 (CSRS) (2010). DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9996354. ALL DIMENSIONS ARE MEASURED UNLESS QUALIFIED. ALL FENCES ARE "ON LINE" UNLESS TIES TO THE PROPERTY LINE ARE SHOWN. ALL PINS ARE (LT) UNLESS NOTED (R). FOR BEARING COMPARISONS, A ROTATION OF 00°02'50" COUNTER-CLOCKWISE WAS APPLIED TO BEARINGS ON PLAN 62R-14943. ALL SET SSIB AND PB MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF O.REG. 525/91.

INTEGRATION DATA		
OBSERVED REFERENCE POINTS (ORP): UTM ZONE 17, NAD83 (CSRS) (2010) CO-ORDINATES TO URBAN ACCURACY PER SEC. 14(2) OF O. REG 216/10.		
POINT ID	NORTHING	EASTING
A	4798519.81	575426.18
B	4798356.45	575270.44
CO-ORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.		
THE RESULTANT TIE BETWEEN ORP A AND ORP B IS N78°35'26"E W 193.44.		

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE 7TH DAY OF MARCH, 2024.

JUNE 6, 2024

JOHN W. MUIR
ONTARIO LAND SURVEYOR

- LEGEND**
- SIB - STANDARD IRON BAR
 - SSIB - SHORT STANDARD IRON BAR
 - IB - IRON BAR
 - CC - CUT CROSS
 - PB - PLASTIC BAR
 - CP - CONCRETE PIN
 - - PLANTED
 - - FOUND
 - - ROUND
 - WT - WITNESS
 - S - SET
 - 824 - A.T. MCLAREN, O.L.S.
 - P1 - PLAN 62R-9259

THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER V-

MacAulay, White & Muir Ltd.
ONTARIO LAND SURVEYORS - CANADA LANDS SURVEYORS
A Wholly Owned Subsidiary of J.D. Barnes Limited
440 HARDY ROAD, UNIT 2, BRANTFORD, ON N3T 5L8
T: (519) 752-0040 www.jdbarnes.com

DRAWN:	LD
CHECKED:	JW
Ref. No.	24-50-051-00



+/-405m

+/-76m

+/-37m

+/-639m

+/-721m

+/-413m

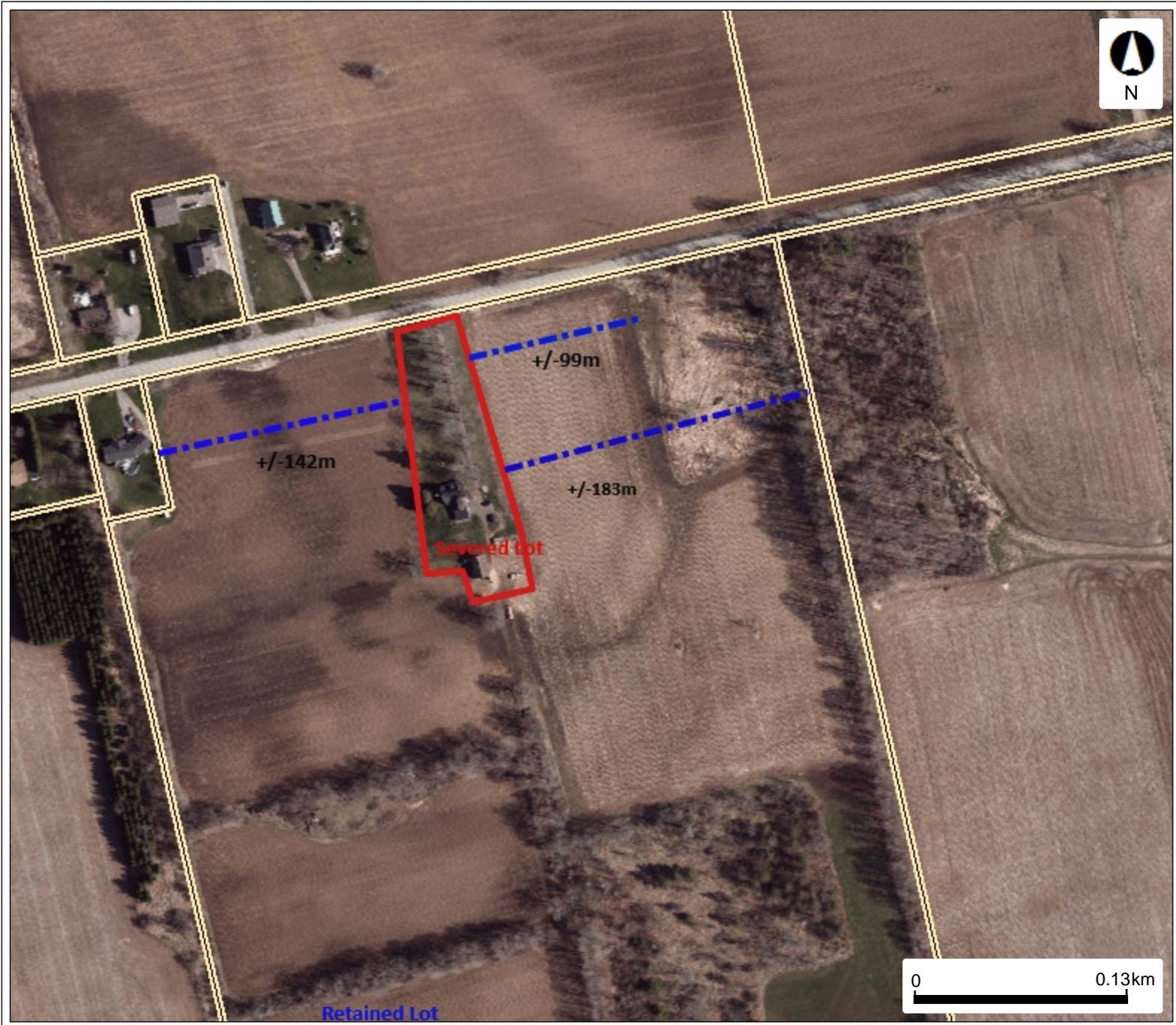
Severance



Legend
Assessment Parcel

This map should not be relied on as a precise indicator of routes or locations, nor as a guide to navigation. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) shall not be liable in any way for the use or any information on this map. of, or reliance upon, this map.

Approximate Distances



Legend

- Assessment Parcel

This map should not be relied on as a precise indicator of routes or locations, nor as a guide to navigation. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) shall not be liable in any way for the use or any information on this map. of, or reliance upon, this map.

NOTICE OF DECISION
Consent/Land Severance

APPLICATION NO.:	B-24:42	SUBJECT PROPERTY:	1248 Concession 6 West, Flamborough
-------------------------	----------------	--------------------------	--

APPLICANTS: Owner: Phil & Marlene Elgersma
 Agent: Ruchika Angrish (The Angrish Group)

PURPOSE & EFFECT: To permit the conveyance of a surplus farm dwelling lot containing an existing dwelling for residential purposes and to retain a parcel of land for agricultural purposes.

	Frontage	Depth	Area
SEVERED LANDS:	50.71 m [±]	171.20 m [±]	1 ha [±]
RETAINED LANDS:	300 m [±]	715 m [±]	28.58 ha [±]

Associated Planning Act File(s): A-24:171

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out above, Approved with Conditions, 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 conditions.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following condition(s):

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 –Plan Examination Section).
5. 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 – Plan Examination Section).
6. Transportation Planning can support the Severance if the following right-of-way dedication is provided to the City of Hamilton:

Concession 6 West is a Collector Road and require a right-of-way of 36 metres. The Council Approved Rural Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads shall be 36 metres. The existing right-of-way is approximately 20 metres and approximately ± 8 metres are to be dedicated to the right-of-way on Concession 6 West.

- a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening.
 - b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.
 - c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
7. The Owner shall apply for and receive a restrictive covenant for the farm parcel (retained lands) to prohibit the construction of a dwelling unit, to the satisfaction of the Director of Development Planning.
 8. The owner/applicant 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).
 9. The owner/applicant shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).

DATED AT HAMILTON, August 20, 2024.

D. Smith (Chairman)

N. Lauwers

D. Lord

R. Reid

S. Rybarczyk

The date of the giving of this Notice of Decision is **August 23, 2024**. Above noted conditions **MUST** be fulfilled within **TWO (2) YEARS** of the date of this Notice of Decision (August 23, 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 **September 12, 2024 at 4:30pm**. 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.

APPEAL INFORMATION – CONSENTS/SEVERANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment or Consent Authority?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 53(19) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 53(19) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and any “public body” (as defined by Planning Act 1(1)).

2. When must an appeal be received to be considered?

Planning Act Section 53(19) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the giving of Notice of the Decision. Please see Notice of Decision for exact date and time.

3. Where must the appeal be filed to be considered?

Planning Act Section 53(19) appeals must be received in one of the following formats:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to cofa@hamilton.ca. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact cofa@hamilton.ca in advance to request a file sharing link.

E-file Portal: By filing an appeal through the OLT E-file Portal at <https://olt.gov.on.ca/e-file-service/> to Hamilton (City) – Committee of Adjustment and Consent Authority (select appropriate approval body as outlined on the Notice of Decision). Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly chosen approval authority will be time barred and of no effect.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of appeal, the appeal must be filed with one of the other two

options. Appeals received after the date of appeal as a result of one of the methods being unavailable will be time barred and of no effect.

4. What information must be submitted for the appeal to be considered?

Planning Act Section 53(19) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5th floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form or OLT E-file Portal;
- All other information as required by the Appeal Form.

Questions or Information:

Contact Committee of Adjustment Staff (cofa@hamilton.ca)

NOTICE OF DECISION
Minor Variance

APPLICATION NO.:	A-24:171	SUBJECT PROPERTY:	1248 Concession 6 West Millgrove, Hamilton
ZONE:	Agriculture (A1) and Conservation/Hazard Land - Rural Zone (P6)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200

APPLICANTS: Owner: Phil & Marlene Elgersma
 Agent: Ruchika Angrish (The Angrish Group)

The following variances are **GRANTED**:

1. A minimum lot area of 28 hectares instead of 40.4 hectares required.

Notes:

- i) Please be advised zoning is unable to determine if the proposal complies to Section 4.8.1.2 b) Gross Floor Area for accessory buildings and Section 5 – Parking as there was not enough details on the site plan, additional variances may be required.

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, August 20, 2024.

D. Smith (Chairman)

N. Lauwers

D. Lord

R. Reid

S. Rybarczyk

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **September 9, 2024 at 4:30pm**. 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.

APPEAL INFORMATION – MINOR VARIANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

2. When must an appeal be received to be considered?

Planning Act Section 45(12) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the Decision. Please see Notice of Decision for exact date and time.

3. Where must the appeal be filed to be considered?

Planning Act Section 45(12) appeals must be received in one of the following formats:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to cofa@hamilton.ca. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact cofa@hamilton.ca in advance to request a file sharing link.

E-file Portal: By filing an appeal through the OLT E-file Portal at <https://olt.gov.on.ca/e-file-service/> to Hamilton (City) – Committee of Adjustment and Consent Authority (select appropriate approval body as outlined on the Notice of Decision). Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly chosen approval authority will be time barred and of no effect.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of appeal, the appeal must be filed with one of the other two

options. Appeals received after the date of appeal as a result of one of the methods being unavailable will be time barred and of no effect.

4. What information must be submitted for the appeal to be considered?

Planning Act Section 45(12) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5th floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form or OLT E-file Portal;
- All other information as required by the Appeal Form.

Committee of Adjustment
 City Hall, 5th Floor,
 71 Main St. W.,
 Hamilton, ON L8P4Y5

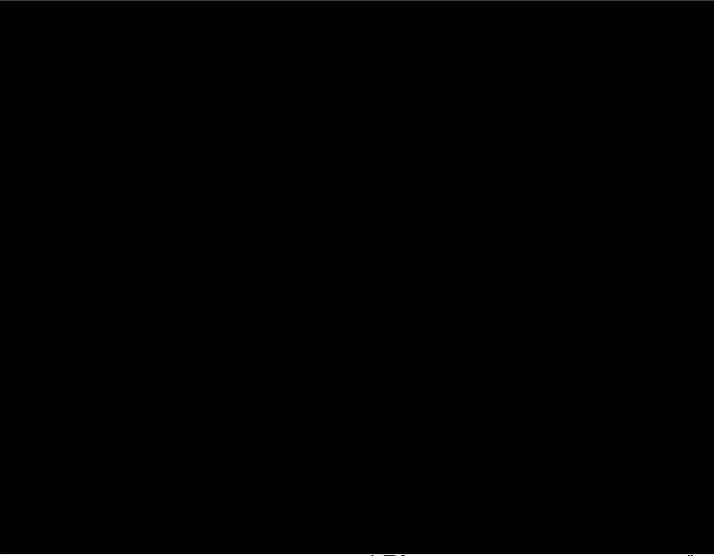
Phone: (905) 546-2424 ext. 4221
 Email: cofa@hamilton.ca



**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

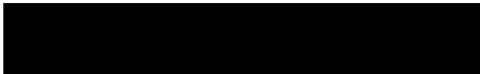
	NAME	
Purchaser*		
Registered Owners(s)	Phil and Marlene Elgersma	
Applicant(s)**	Ruchika Angrish (The Angrish Group)	
Agent or Solicitor	same as applicant	
		Phone:
		E-mail:

*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 Primary contact 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* 

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.

1.6 Payment type

In person
 Cheque

Credit over phone*

*Must provide number above

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1248 6th Concession Road West, Millgrove, Hamilton, ON		
Assessment Roll Number	251830154062000		
Former Municipality	Beverly		
Lot		Concession	5
Registered Plan Number		Lot(s)	33
Reference Plan Number (s)		Part(s)	

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:

3 PURPOSE OF THE APPLICATION

3.1 Type and purpose of proposed transaction: (check appropriate box)

- creation of a new lot(s)
- addition to a lot
- an easement
- validation of title (must also complete section 8)
- cancellation (must also complete section 9)
- creation of a new non-farm parcel (must also complete section 10)
 (i.e. a lot containing a surplus farm dwelling
 resulting from a farm consolidation)
- concurrent new lot(s)
- a lease
- a correction of title
- a charge

3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

n/a

3.3 If a lot addition, identify the lands to which the parcel will be added:

n/a

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, m² or ha), attach additional sheets as necessary.

	Retained (remainder)	Parcel 1	Parcel 2	Parcel 3*	Parcel 4*
Identified on Sketch as:	Retained	Severed			
Type of Transfer	N/A	Surplus Farm Div			
Frontage	+ 300 m	+/- 50.71m			
Depth	+/-715m	+/-171.20m			
Area	+/- 28.58 ha	+/- 1 ha			
Existing Use	Agricultural	Agricultural/Resi			
Proposed Use	Agricultural	Residential			
Existing Buildings/ Structures	NA	Brick house with attached garage 2 frame			
Proposed Buildings/ Structures	NA	NA			
Buildings/ Structures to be Removed	NA	n/a			

* Additional fees apply.

4.2 Subject Land Servicing

a) Type of access: (check appropriate box)

- provincial highway
- municipal road, seasonally maintained
- municipal road, maintained all year

- right of way
- other public road

6th Concession Road W

b) Type of water supply proposed: (check appropriate box)

- publicly owned and operated piped water system
- privately owned and operated individual well

- lake or other water body
- 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): Agricultural and Greenbelt N

Rural Settlement Area: NA

Urban Hamilton Official Plan designation (if applicable) NA

Please provide an explanation of how the application conforms with a City of Hamilton Official Plan.

The application causes no negative impacts on the existing agricultural lands, & is severing the existing house, two accessory structures and 1 brick coop, as a surplus farm dwelling. The agricultural uses on the retained lands will continue to be used and there will be no

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? Agricultural (A1)

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.

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)
An agricultural operation, including livestock facility or stockyard * Submit Minimum Distance Separation Formulae (MDS) if applicable	<input type="checkbox"/>	Within 500 m, see MDS report
A land fill	<input type="checkbox"/>	NA
A sewage treatment plant or waste stabilization plant	<input type="checkbox"/>	NA
A provincially significant wetland	<input checked="" type="checkbox"/>	0m
A provincially significant wetland within 120 metres	<input checked="" type="checkbox"/>	0m
A flood plain	<input type="checkbox"/>	NA
An industrial or commercial use, and specify the use(s)	<input type="checkbox"/>	NA
An active railway line	<input type="checkbox"/>	NA
A municipal or federal airport	<input type="checkbox"/>	NA

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.

-
- 6.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.

NA

-
- 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?

Since July, 2013

-
- 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.

The owners own a property located at 954 Westover Road in Branchton. This property is within a 5 minute drive to the subject lands. They live and farm on this property.

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)

See Planning Justification Report (PJR) attached

-
- 7.2 Is this application consistent with the Provincial Policy Statement (PPS)?

Yes No (Provide explanation)

see PJR

-
- 7.3 Does this application conform to the Growth Plan for the Greater Golden Horseshoe?

Yes No (Provide explanation)

SEE PJR

-
- 7.4 Are the subject lands subject to the Niagara Escarpment Plan?

Yes No (Provide explanation)

located outside of NEP

7.5 Are the subject lands subject to the Parkway Belt West Plan?

Yes No (Provide explanation)

NA

7.6 Are the subject lands subject to the Greenbelt Plan?

Yes No (Provide explanation)

see PJR

7.7 Are the subject lands within an area of land designated under any other provincial plan or plans?

Yes No (Provide explanation)

NA

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	954 Westover Road Hamilton, ON N0B 1L0		
Assessment Roll Number			
Former Municipality	Beverly, Flamborough		
Lot	Part 31	Concession	5
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.
 Agricultural

10.4

Description of farm consolidation property:

Frontage (m): 358m, 930m	Area (m ² or ha): +/-39 ha
--------------------------	---------------------------------------

Existing Land Use(s): Agricultural Proposed Land Use(s): Agricultural

10.5

Description of abutting consolidated farm (excluding lands intended to be severed for the surplus dwelling)

Frontage (m):	Area (m ² 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) +/- 50.71m	Area (m ² or ha): (from Section 4.1) +/- 1 ha
--	---

Front yard set back: +98m

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

Phone: (905) 546-2424 ext. 4221
 Email: cofa@hamilton.ca

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			
			Phone:
			E-mail:

1.2 Primary contact Applicant Owner Agent/Solicitor

1.3 Sign should be sent to Applicant Owner Agent/Solicitor

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 be sent by email.

1.6 Payment type In person Credit over phone* Cheque

*Must provide number above

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1248 6th Concession Road West Millgrove, Hamilton, ON		
Assessment Roll Number	251830154062000		
Former Municipality	Beverly		
Lot		Concession	3
Registered Plan Number		Lot(s)	33
Reference Plan Number (s)		Part(s)	

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:

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:

The owners have submitted concurrent Consent Application to sever the existing dwelling, two accessory structures, and 1 brick coop as a surplus farm dwelling. The subject lands are currently undersized as per A1 zone requirements, and a variance is

Second Dwelling Unit Reconstruction of Existing Dwelling

3.2 Why it is not possible to comply with the provisions of the By-law?

The retained parcel will have a reduced lot area of 28 hectares, whereas 40.4 hectares (minimum) is required.

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

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
+/-405m	+/-721m	+/-29.58 ha	NA

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
Brick House with atta	+98m	+47m	12.19m, 31.2m	NA
Frame shed	+100m	20m	27.73m, +29.15m	NA
Frame shed	+100m	+35m	+35m, 17.10m	NA
Brick coop	+100m	+20m	22m, +30m	NA

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
NO NEW				
PROPOSED				

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
Brick House with atta		175 sq.m	2	
Frame shed		11 sq.m	1	
Frame shed		91 sq.m	2	
Brick Coop		8 sq.m	>0.5	

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
NO NEW				
PROPOSED				

- 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
- 6th Concession Road W

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):
Agricultural

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):
Agricultural

7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:
July 26, 2013

7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
Agricultural, single detached dwelling, accessory structures

7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
Agricultural (dwelling and accessory structure to be severed)

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): Agricultural and Greenbelt Natural
Rural Settlement Area: NA

Urban Hamilton Official Plan designation (if applicable) NA

Please provide an explanation of how the application conforms with the Official Plan.
The application causes no negative impacts on the existing agricultural lands. The agricultural uses on the retained lands will continue to be used.

7.6 What is the existing zoning of the subject land? NA

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: NA

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: unknown, submitted concurrently

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):

All current structures (existing dwelling with attached garage, 2 accessory structures, 1 brick coop) will be severed and the variance is required for the retained farmland for minimum lot area.

Please see PJR for more information

11 COMPLETE APPLICATION REQUIREMENTS

11.1 All Applications

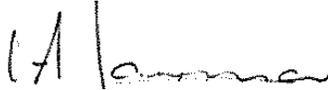
- Application Fee
- Site Sketch
- Complete Application form
- Signatures Sheet

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
-
-



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the <i>Planning Act</i> (Stoney Creek) (PED25015) (Ward 10)
WARD(S) AFFECTED:	Ward 10
PREPARED BY:	Heather Travis (905) 546-2424 Ext. 2978
SUBMITTED BY:	Ashraf Hanna Director, Growth Management and Chief Development Engineer Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to deem Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be part of a Registered Plan of Subdivision, for the purposes of Subsection 50(3) of the *Planning Act*, as shown on Appendix "A" to Report PED25015;
- (b) That the draft By-law, attached as Appendix "D" to Report PED25015, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

EXECUTIVE SUMMARY

The Owner / Applicant has submitted an application for approval of a By-law in order to deem Blocks 187, 188 and 189 of Registered Plan 62M-987 (shown on Appendix "A" to Report PED25015) not to be part of a Registered Plan of Subdivision, for the purposes of Subsection 50(3) of the *Planning Act*.

As prescribed under Subsection 50(4) of the *Planning Act*, the Council of a Municipality may, by By-law, designate any Plan of Subdivision, or part thereof, that has been

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: Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the *Planning Act* (Stoney Creek) (PED25015) (Ward 10) – Page 2 of 7

registered for eight years or more, and deem it not to be a Registered Plan of Subdivision for the purpose of the subdivision control provisions of Subsection 50(3) of the *Planning Act*. The subject lands are part of Registered Plan of Subdivision 62M-987 (Appendix “B” to Report PED25015), which was registered on August 29, 2003, being more than the required eight years.

The purpose and effect of the application is to allow for the parcels of land (Blocks 187, 188 and 189 of Plan 62M-987) to merge with adjacent lands, known as Part 4 of 32 Sandbeach Drive, in order to ultimately establish three single detached residential lots (to be established through a future consent application). The subject lands and the adjacent lands to which they will be added are identified on the sketch attached as Appendix “C” to Report PED25015.

As per Subsection 50(28) of the *Planning Act*, the attached By-law shall come into force and take effect when registered in the Land Registry Office. As such, staff is supportive of the proposed By-law.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: Per the *Planning Act*, a Public Meeting is not required to consider a By-law to designate any Plan of Subdivision, or part thereof, that has been registered for eight years or more, and deem it not to be a Registered Plan of Subdivision for the purpose of the subdivision control provisions of Subsection 50(3) of the *Planning Act*.

A copy of the By-law will be lodged with the Minister of Municipal Affairs and Housing.

Additionally, a certified copy or duplicate copy of the deeming By-law will be registered against the title to the lands in the Land Registry Office. This By-law shall come into force and take effect when registered in the Land Registry Office.

Lastly, notice of passing of the By-law will be given within 30 days of the date of passing to each person appearing on the last revised assessment roll to be the owner of land to which the By-law applies.

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

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

SUBJECT: Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the *Planning Act* (Stoney Creek) (PED25015) (Ward 10) – Page 3 of 7

HISTORICAL BACKGROUND

Proposal

The subject lands are located on the north side of Kingspoint Circle, Stoney Creek, as identified on Appendix “A” to Report PED25015.

As prescribed under Subsection 50(4) of the *Planning Act*, the Council of a Municipality may, by By-law, designate any Plan of Subdivision, or part thereof, that has been registered for eight years or more, and deem it not to be a Registered Plan of Subdivision for the purpose of the subdivision control provisions of Subsection 50(3) of the *Planning Act*.

The Owner / Applicant has therefore submitted an application pursuant to Subsection 50(4) of the *Planning Act*, for approval of a By-law to deem Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be part of a Registered Plan of Subdivision for the purposes of Subsection 50(3) of the *Planning Act*.

In review, the subject Plan of Subdivision was registered on August 29, 2003, being more than the required eight years under Subsection 50(4) of the *Planning Act*.

The purpose and effect of the application is to allow for the parcels of land (being Blocks 187, 188 and 189 of Registered Plan 62M-987) to merge with adjacent lands known as Part 4 of 32 Sandbeach Drive, in order to ultimately establish three single detached residential lots. The *Planning Act* applications required to facilitate this merger are described below.

Consent Application SC/B-22:114

Consent application SC/B-22:114, approved on August 24, 2023, was applicable to the lands north of the subject lands, known as 32 Sandbeach Drive (Parts 1 to 4), as identified on Appendix “C” to Report PED25015. It is intended that Part 4 of 32 Sandbeach Drive will be merged with the subject lands of this Report (Blocks 187, 188 and 189 of Registered Plan 62M-987). To facilitate this future merger, a condition was added to the approval of SC/B-22:114 which required the applicant to apply for and receive final approval of a Zoning By-law Amendment application (see below).

Zoning By-law Amendment Application ZAC-24-017

As per the required condition of Consent, Zoning By-law Amendment application ZAC-24-017 was approved by Council on August 16, 2024 (By-law No. 24-152). The lands described as Part 4 (32 Sandbeach Drive) were re-zoned to Single Residential “R3-12(H)” Zone, Modified, Holding. The Single Residential “R3-12” Zone, Modified is

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SUBJECT: Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the *Planning Act* (Stoney Creek) (PED25015) (Ward 10) – Page 4 of 7

consistent with the zoning of the subject lands (Blocks 187, 188 and 189 of Registered Plan 62M-987).

The Holding Provision applicable to both the subject lands and Part 4 of 32 Sandbeach Drive, as modified through By-law No. 24-152, requires “that the subject lands identified as Block 3 on Schedule “A” be consolidated with abutting lands described as Blocks 187, 188 and 189, Plan 62M-987, to the satisfaction of the Director of Planning and Chief Planner.” It should be noted that Block 3 in the Holding Provision corresponds to the lands described as Part 4 of 32 Sandbeach Drive, as shown on Appendix “C” to Report PED25015. As such, this current application to de-register Blocks 187, 188, and 189 is necessary to fulfil this land consolidation and clear the Holding Provision.

A future application for a Zoning By-law Amendment (Holding Removal) will be required upon successful completion of this application to de-register Blocks 187, 188 and 189 of 62M-987 and upon confirmed consolidation of the lands. In addition, a future consent application will be required to facilitate the creation of three single detached dwelling lots on the merged lands.

Chronology

August 14, 2023	Consent application SC/B-22:114, applicable to the lands north of the subject lands known as 32 Sandbeach Drive, approved by the Committee of Adjustment.
August 16, 2024	Zoning By-law Amendment application ZAC-04-017, applicable to the lands known as Part 4 of 32 Sandbeach Drive, approved by Council.
October 2, 2024	Application to Deem Blocks 187, 188 and 189 Registered Plan 62M-987 not to be part of a Registered Plan of Subdivision deemed complete.

Details of Submitted Application:

Location: Blocks 187, 188 and 189 Registered Plan 62M-987
(See Appendices “A” and “B” to Report PED25015)

Owner/Applicant: Fifty Road Joint Venture Inc.

Agent: A.J. Clarke & Associates Ltd.

Property Description: For Blocks 187, 188 and 189 combined:

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SUBJECT: Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the *Planning Act* (Stoney Creek) (PED25015) (Ward 10) – Page 5 of 7

Lot Frontage: approx. 38 m

Lot Depth: varies from 14.47 to 22.71 m

Lot Area: approx. 770 sq m

Servicing: Existing Full Municipal Services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant	Single Residential “R3-12(H)” Zone, Modified, Holding
<u>Surrounding Land Uses:</u>		
North	Vacant	Single Residential “R3-12(H)” Zone, Modified, Holding
South	Residential	Single Residential “R1-12” Zone, Modified
East	Residential	Single Residential “R1-12” Zone, Modified
West	Residential	Single Residential “R1-12” Zone, Modified

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Statement (2024)

The application has been reviewed with respect to the Provincial Planning Statement.

As the proposal will facilitate the merging of the subject lands with adjacent lands in order to establish three single detached residential lots within the existing urban area, the proposal is consistent with the Provincial Planning Statement and is supported by staff.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and are designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations of Volume 1 of the Urban Hamilton Official Plan. Further, the subject

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SUBJECT: Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the *Planning Act* (Stoney Creek) (PED25015) (Ward 10) – Page 6 of 7

lands are designated “Low Density Residential 2b” within the Urban Lakeshore Secondary Plan.

As noted above, the proposal is to facilitate the merger of the subject lands with adjacent lands to the north, as required by the applicable Holding Provision, in order to establish three single detached residential lots.

Policy F.1.14.1.5 of Volume 1 of the Urban Hamilton Official Plan (UHOP) states:

“If a plan of subdivision or part thereof has been registered for eight years or more and does not conform to the policies of this Plan, the City may use its authority under the *Planning Act* to deem it not be a registered plan of subdivision.”

Accordingly, the UHOP recognizes the City’s ability, in accordance with the *Planning Act*, to deem lands not to be a registered plan of subdivision provided the Plan has been registered for eight years or more. Registered Plan No. 62M-987 was registered on August 29, 2003 and therefore complies to the requirement of eight years or more of the plan having been registered.

Therefore, the proposal to deem Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be part of a Registered Plan for the purposes of Subsection 50(3) of the *Planning Act*, in order to accommodate the merger of the subject lands with the adjacent parcel, complies with the Urban Hamilton Official Plan and is supported by staff.

RELEVANT CONSULTATION

- Corporate Services Department, Legal Services Division; and,
- Planning and Economic Development Department, Planning Division.

PUBLIC CONSULTATION

Due to the nature of the application and per the *Planning Act*, public notice is not required for the subject application. Notice of the By-law is to be given to the Owner within 30 days of the passing of the By-law by registered mail (as prescribed in the By-law as Appendix “D” to Report PED25015). Of note, the By-law will come into force and effect upon registration on title.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Planning Statement (2024);

SUBJECT: Application to Deem lands Being Blocks 187, 188 and 189 of Registered Plan 62M-987 not to be Part of a Registered Plan of Subdivision, for the Purposes of Subsection 50(3) of the *Planning Act* (Stoney Creek) (PED25015) (Ward 10) – Page 7 of 7

- (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
- (iii) The proposed By-law will facilitate the merging of the subject lands with adjacent lands in order to satisfy the condition of the Holding Provision applicable to the lands, and allow for the development of three single detached residential lots which are compatible with existing land uses in the immediate area and represent good planning.

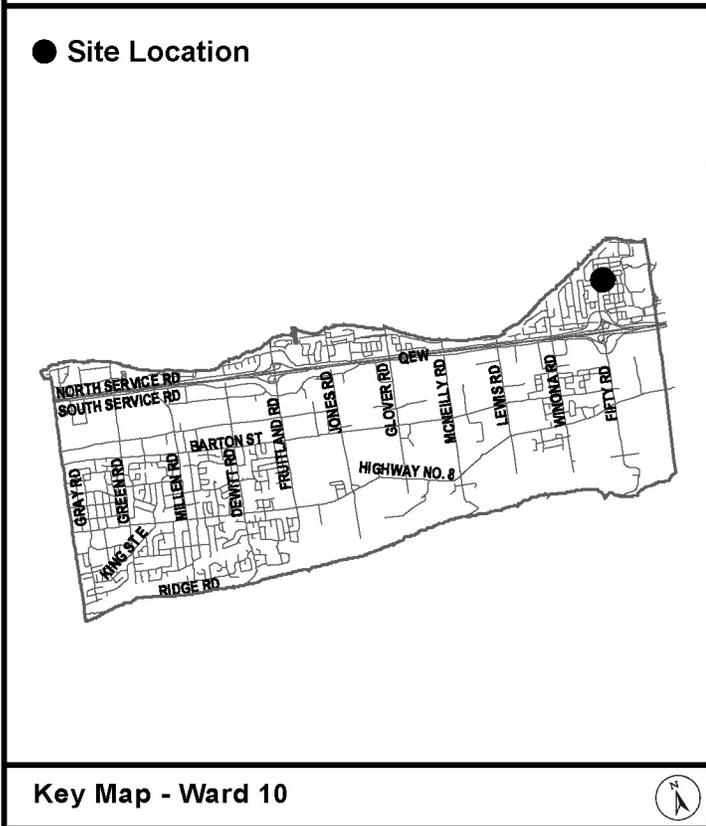
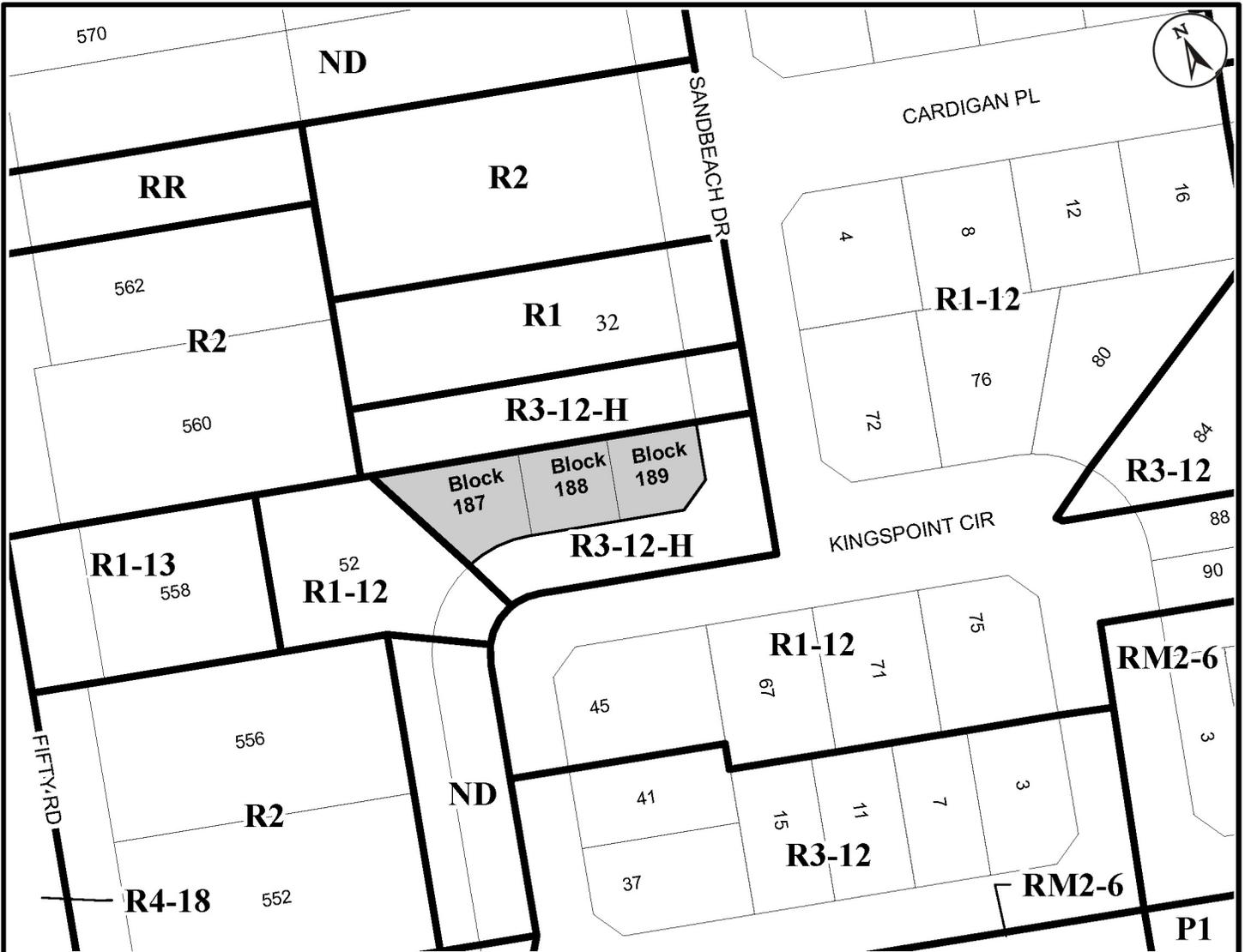
ALTERNATIVES FOR CONSIDERATION

If the application is denied, the Blocks would remain within the existing Registered Plan of Subdivision 62M-987. The Blocks would be unable to legally merge with the adjacent parcel, rendering Part 4 on Appendix “C” to Report PED25015 undevelopable. The Holding Provision applicable to the subject lands could not be cleared.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED25015 -	Location Map
Appendix “B” to Report PED25015 -	Registered Plan of Subdivision 62M-987
Appendix “C” to Report PED25015 -	Sketch for Committee of Adjustment Consent to Sever application SC/B-22:114
Appendix “D” to Report PED25015 -	By-law to Deem Lands not to be Part of a Registered Plan

HT/tb



<h1>Location Map</h1>		 Hamilton
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: Registered Plan 62M-987		Date: October 8, 2024
Appendix "A"	Scale: N.T.S	Planner/Technician: HT/NB

Subject Property
 Blocks 187, 188 and 189 of Registered Plan 62M-987,
 Stoney Creek (Ward 10)

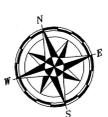
 Lands to be Deemed not to be Part of a Registered Plan: Blocks 187, 188 and 189, Plan 62M-987

Fifty Road Joint Venture Phase 2

BEING A SUBDIVISION OF
PART OF LOT 2 - BROKEN FRONT CONCESSION
GEOGRAPHIC TOWNSHIP OF SALT FLEET
CITY OF HAMILTON

SCALE 1:1000
B. J. CLARKE O.L.S.

LOT	BLOCK	RADIUS	ARC	CHORD	BEARING
60	20.00	2.81	2.81	N69°04'45"W	
61	20.00	10.41	10.29	N50°09'50"W	
62	20.00	10.41	10.29	N89°09'50"W	
63	20.00	7.75	7.70	N65°39'50"E	
77	20.00	4.49	4.48	N68°40'00"W	
78	20.00	13.54	13.09	N41°07'45"W	
79	20.00	14.31	14.01	N52°54'00"E	
81	20.00	6.32	6.59	N26°21'45"E	
82	20.00	12.51	12.31	N63°57'00"E	
83	20.00	9.10	9.02	N84°54'10"E	
84	20.00	3.13	3.13	N77°55'15"W	
186	20.00	5.46	5.44	N24°35'00"E	
186	20.00	13.54	13.28	N02°37'20"W	
187	20.00	11.70	11.53	N68°01'10"W	



PLAN 62M-987

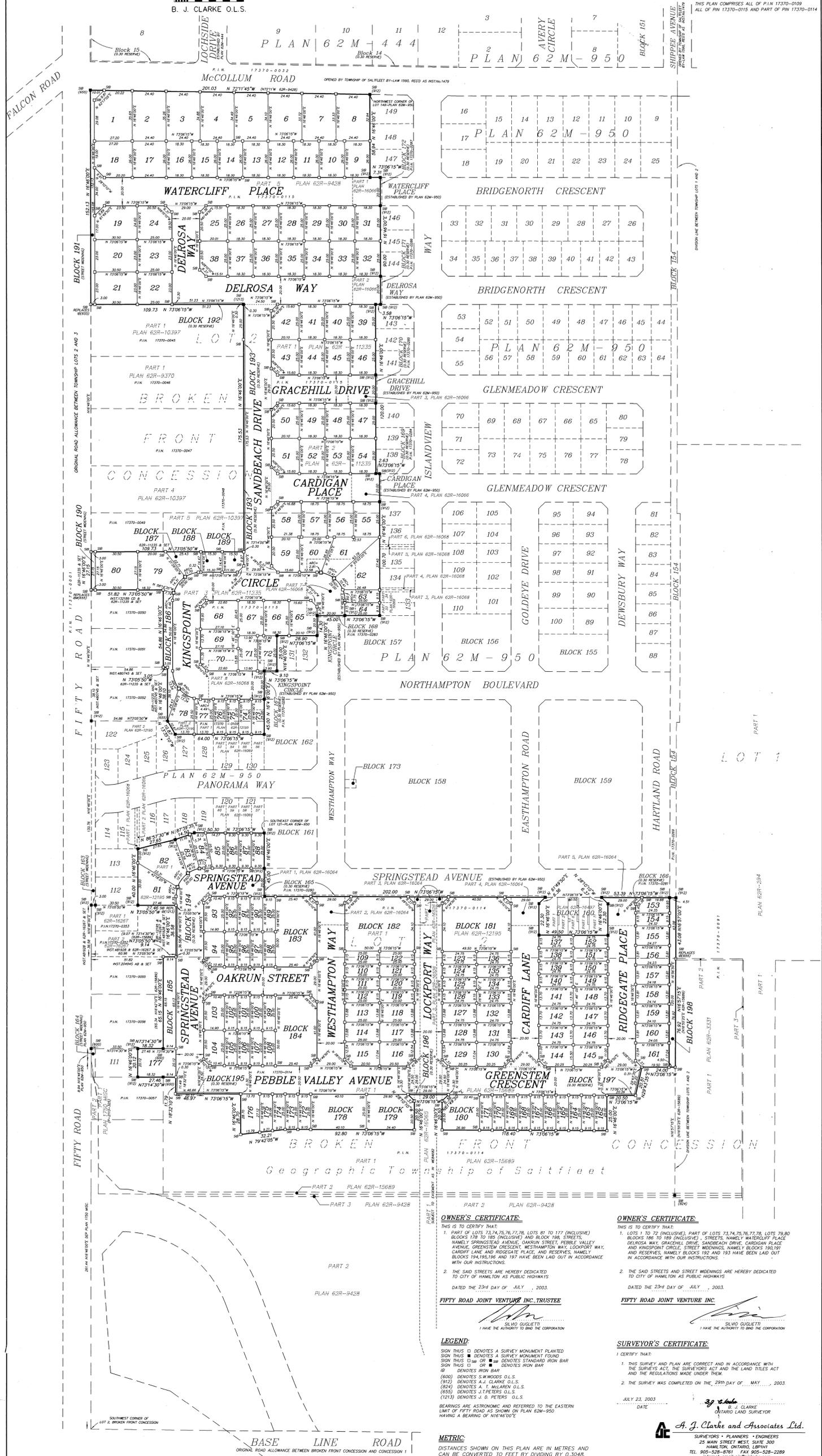
I CERTIFY THAT THIS PLAN IS REGISTERED IN THE LAND REGISTRY OFFICE FOR THE LAND TITLES DIVISION OF NEWNORTH (62) AT 11:19 O'CLOCK ON THE 19TH DAY OF **AUGUST**, 2003 AND ENTERED IN THE REGISTER FOR PIN **17370-019, 17370-0114** AND REQUIRED CONSENTS **17370-0115** AS PLAN DOCUMENT NO. **WE 182 089**

CRS/James ADL
LAND REGISTRAR

APPROVED UNDER SECTION 51 OF THE PLANNING ACT BY THE COMMISSIONER OF ENVIRONMENT OF THE REGIONAL MUNICIPALITY OF HAMILTON-NORTHWEST THIS **12** DAY OF **AUGUST**, 2003

Paul M...
COMMISSIONER OF ENVIRONMENT
REGIONAL MUNICIPALITY OF HAMILTON-NORTHWEST
AUTHORIZED BY BY-LAW NO. R95-041

THIS PLAN COMPRISES ALL OF P.L.N. 17370-0109 ALL OF P.L.N. 17370-0115 AND PART OF P.L.N. 17370-0114



OWNER'S CERTIFICATE

THIS IS TO CERTIFY THAT:

1. PART OF LOTS 73, 74, 75, 76, 77, 78, LOTS 81 TO 117 (INCLUSIVE), BLOCKS 186 TO 189 (INCLUSIVE) AND BLOCK 188, STREETS, NAMELY WATERCLIFF PLACE, DELROSA WAY, GRACEHILL DRIVE, SANDBEACH DRIVE, CARDIGAN PLACE AND KINGSPOINT CIRCLE, STREET WIDENINGS, NAMELY BLOCKS 190, 191 AND RESERVES, NAMELY BLOCKS 192 AND 193 HAVE BEEN LAID OUT IN ACCORDANCE WITH OUR INSTRUCTIONS.

2. THE SAID STREETS AND STREET WIDENINGS ARE HEREBY DEDICATED TO CITY OF HAMILTON AS PUBLIC HIGHWAYS

DATED THE 23RD DAY OF JULY, 2003.

FIFTY ROAD JOINT VENTURE INC., TRUSTEE
SILVIO GIULIETTI
I HAVE THE AUTHORITY TO SIGN THE CORPORATION

OWNER'S CERTIFICATE

THIS IS TO CERTIFY THAT:

1. LOTS 1 TO 72 (INCLUSIVE), PART OF LOTS 73, 74, 75, 76, 77, 78, LOTS 79, 80, BLOCKS 186 TO 189 (INCLUSIVE), STREETS, NAMELY WATERCLIFF PLACE, DELROSA WAY, GRACEHILL DRIVE, SANDBEACH DRIVE, CARDIGAN PLACE AND KINGSPOINT CIRCLE, STREET WIDENINGS, NAMELY BLOCKS 190, 191 AND RESERVES, NAMELY BLOCKS 192 AND 193 HAVE BEEN LAID OUT IN ACCORDANCE WITH OUR INSTRUCTIONS.

2. THE SAID STREETS AND STREET WIDENINGS ARE HEREBY DEDICATED TO CITY OF HAMILTON AS PUBLIC HIGHWAYS

DATED THE 23RD DAY OF JULY, 2003.

FIFTY ROAD JOINT VENTURE INC.
SILVIO GIULIETTI
I HAVE THE AUTHORITY TO SIGN THE CORPORATION

LEGEND

SIGN THIS 'D' DENOTES A SURVEY MONUMENT PLANTED
SIGN THIS 'F' DENOTES A SURVEY MONUMENT FOUND
SIGN THIS 'S' OR 'M' DENOTES STANDING IRON BAR
SIGN THIS 'I' DENOTES IRON BAR
OR DENOTES IRON BAR
(600) DENOTES S.W. WOODS O.L.S.
(912) DENOTES A.L. CLARKE O.L.S.
(824) DENOTES A. I. MCGILVER O.L.S.
(652) DENOTES J. PETERS O.L.S.
(1213) DENOTES J. G. PETERS O.L.S.

BEARINGS ARE ASTROMONIC AND REFERRED TO THE EASTERN LIMIT OF FIFTY ROAD AS SHOWN ON PLAN 62M-950 HAVING A BEARING OF N16°16'00"E

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE 29TH DAY OF MAY, 2003

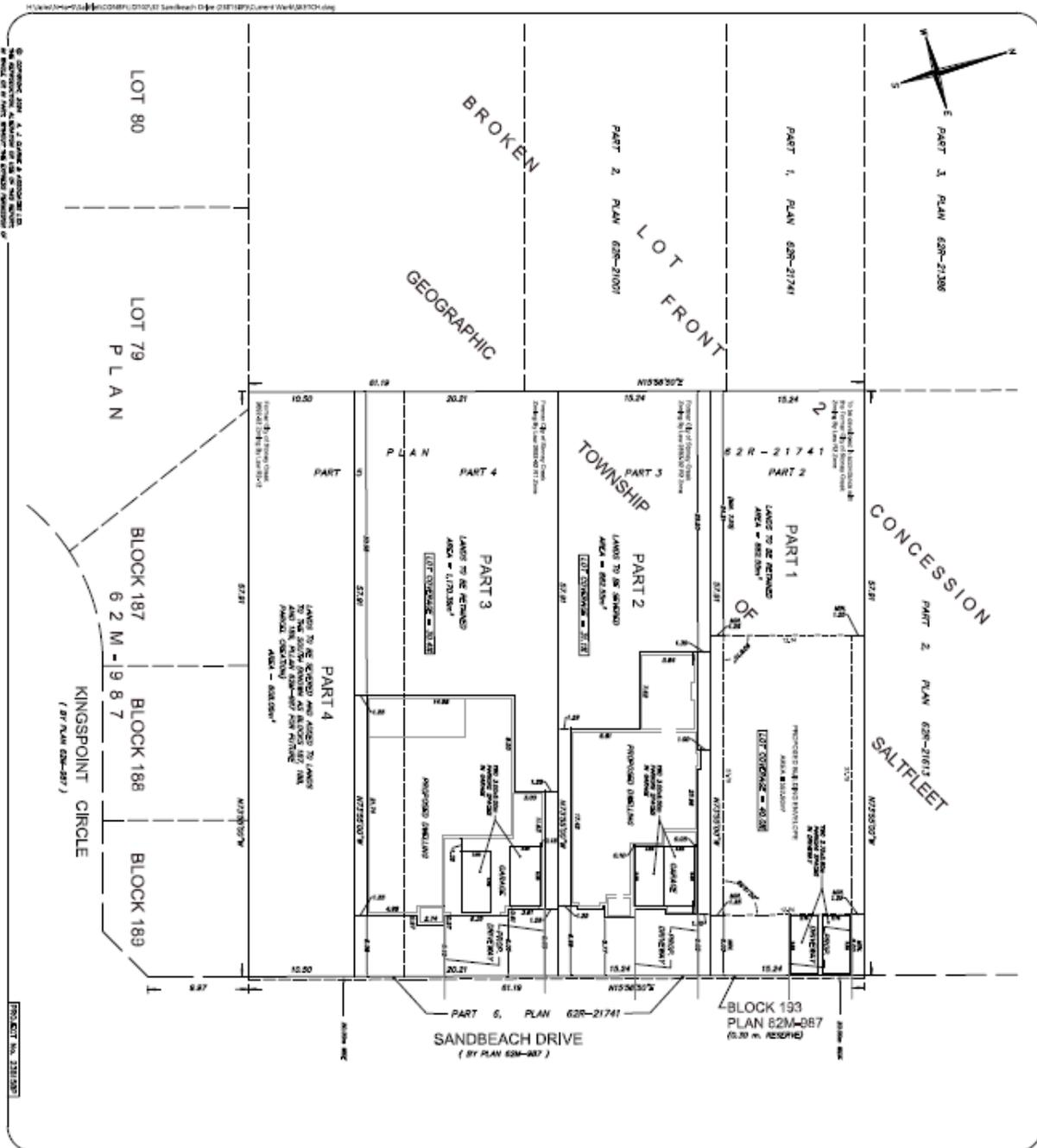
JULY 23, 2003
DATE

A. J. Clarke and Associates Ltd.
SILVIO GIULIETTI
ONARIO LAND SURVEYOR

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

Appendix "C" to Report PED25015
Page 1 of 1



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ALL RIGHTS RESERVED. ALL RIGHTS IN THIS PLAN AND SURVEY
HEREIN ARE RESERVED. THIS PLAN AND SURVEY IS THE PROPERTY
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OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC
OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY
ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

PROJECT NO. 2312187



SKETCH
32 SANDBEACH DRIVE
CITY OF HAMILTON
(STONEY CREEK)
SCALE 1:250
10 METERS

THE ABOVE NOTED LANDS BEING LEGALLY RECORDED AS
BROKEN PART CONVESSION
REQUIREMENT TOWNSHIP OF SANDWICH

NOTICE:
DISTANCES SHOWN ON THIS SKETCH ARE IN METERS AND
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048
NOTE:
DIMENSIONS AND MEASUREMENTS SHOWN ON THIS SKETCH
ARE APPROXIMATE, DERIVED FROM PLANS ON FILE IN OUR
OFFICE AND OF ANY RECORD ON A FIELD SURVEY.

CAUTION:
THIS IS NOT A PLAN OF SUBDIVISION AND SHALL NOT BE
USED FOR TRANSACTIONS OR MATRICE PURPOSES
APRIL 13, 2004
DATE

A. J. Clark and Associates Ltd.
SURVEYORS - PLANNERS - ENGINEERS
22 MAIN STREET, SUITE 100
HAMILTON, ONTARIO L8P 1M1
TEL: 905-524-8747 FAX: 905-524-2289
WWW.AJCLARKANDASSOCIATES.COM

CITY OF HAMILTON**BY-LAW NO. _____****A By-law to Deem a Part of A Subdivision Not To Be Registered****Block 187, Block 188, and Block 189 of Registered Plan 62M-987**

WHEREAS Subsection 50(4) of the *Planning Act* R.S.O. 1190, Chapter 13, as amended, provides that the Council of a Municipality may, by By-law, designate any Plan of Subdivision, or part thereof, that has been registered for eight (8) years or more, and deem it not to be a Registered Plan of Subdivision for the purpose of the subdivision control provisions of Subsection 50(3) of the *Planning Act*,

AND WHEREAS Registered Plan 62M-987 was registered in the Land Registry Office on the 29th day of August 2003.

AND WHEREAS Block 187, Block 188, and Block 189, Registered Plan 62M-987, City of Hamilton are within a Plan of Subdivision registered for more than eight (8) years;

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

1. That the following lands are designated and deemed not to be a Registered Plan of Subdivision for the purpose of Subsection 50(3) of the Planning Act:

Block 187, Registered Plan 62M-987, City of Hamilton
Block 188, Registered Plan 62M-987, City of Hamilton
Block 189, Registered Plan 62M-987, City of Hamilton

2. The City Clerk is hereby authorized and directed to:

- (a) lodge a copy of this By-law with the Minister of Municipal Affairs and Housing;

- (b) register a certified copy or duplicate copy of this deeming By-law against the title to the lands in the proper registry office, and this By-law shall not take effect until this requirement has been complied with; and,

- (c) send by registered mail, notice of passing of this By-law to be given within thirty (30) days of the date of passing, to each person appearing by the last revised assessment roll to be the owner of land to which this By-law applies, which notice shall be sent to the last known address of each such person.

3. That notwithstanding S.50(27) of the Planning Act, this By-law No. ___ shall come into force and take effect when registered in the Land Registry Office.

Appendix "D" to Report PED25015
Page 2 of 3

PASSED and ENACTED this ___ day of ___, 2025.

MAYOR

CLERK

Appendix "D" to Report PED25015
Page 3 of 3



<p>This is Schedule "A" to By-law No. 25-</p> <p>Passed the day of, 2025</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>
--	---

<h2>Schedule "A"</h2> <p>Map forming Part of By-law No. 25-_____</p> <p>to Amend By-law No. 3692-92</p>	<p>Subject Property</p> <p>Blocks 187, 188 and 189 of Registered Plan 62M-987, Stoney Creek (Ward 10)</p> <p> Lands to be Deemed not to be Part of a Registered Plan: Blocks 187, 188 and 189, Plan 62M-987</p>
--	--

Scale: N.T.S	File Name/Number: Registered Plan 62M-987	
Date: November 21, 2024	Planner/Technician: HT/NB	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2024
SUBJECT/REPORT NO:	City of Hamilton Response to the Province's Proposed "Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment" - Amendments to Ontario Regulation 153/04 under the <i>Environmental Protection Act</i> (PED25017) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Phil Caldwell (905) 546-2424 Ext. 2359
SUBMITTED BY:	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Council receive Report PED25017 as the basis for written comments respecting proposed amendments to Record of Site Condition requirements under Ontario Regulation 153/04, including the submission letter to the Province, attached as Appendix "A" to Report PED25017;
- (b) That Council adopt the submission and Recommendations as presented in Report PED25017 respecting Proposed Amendments to Record of Site Condition requirements under Ontario Regulation 153/04;
- (c) That the General Manager of Planning and Economic Development be authorized and directed to confirm the submission made to the Province, attached as Appendix "A" to Report PED25017;
- (d) That should the proposed amendments to Record of Site Condition requirements under Ontario Regulation 153/04 come into force, staff be directed and authorized to prepare a draft amendment to the City's Official Plans and

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SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 2 of 9

schedule a Statutory Public Meeting for Council’s consideration at a future Planning Committee.

EXECUTIVE SUMMARY

Contamination of properties (commonly referred to as brownfields) is a real and significant barrier to the redevelopment, reuse and intensification of historically developed areas of the City as the presence of contamination requires property owners/developers to remediate a site to meet applicable Provincial Site Condition Standards when a change to a more sensitive land use is proposed (such as an industrial or commercial site changing to a residential, parkland or institutional use). In such instances, the site must comply with various environmental regulations including that the owner successfully file a Record of Site Condition with the Province which confirms the site’s soil and groundwater meet the required site condition standards for the proposed use. These measures are intended to protect human health and ensure historical contamination and environmental impacts are rectified as sites become subject to redevelopment/reuse.

On November 20, Environmental Registry of Ontario Posting 019-9310 was published seeking comments on proposed amendments to Ontario Regulation 153/04 (the Regulations) regarding Provincial requirements for the filing of Record of Site Condition Standards. The proposed amendments are generally understood to consist of the following:

- Prohibiting the submission of a Record of Site Condition where a Phase One Environmental Site Assessment has been undertaken which has not identified potential environmental impacts that would require further investigation through a Phase Two Environmental Site Assessment. This amendment would prevent third party’s, such as municipalities or financial lenders, from requiring the property owner to submit a Record of Site Condition in such an instance but would not prevent a property owner who willfully seeks to file a Record of Site Condition for their own property;
- Modifying current Record of Site Condition exemptions by:
 - a) Removing the six-storey cap on existing buildings which may be exempted from Record Site Condition filing requirements when being converted from a commercial or community use to one containing residential or other sensitive uses above the ground floor; and,

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SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 3 of 9

- b) Permitting additions to the exterior of a commercial or community use building, including the creation of additional stories above the ground floor that expand beyond the existing ground floor footprint for residential or more sensitive land uses, from Record of Site Condition filing requirements.

Staff prepared and submitted comments to the Province prior to the closing of the commenting period on January 10, 2025, a copy of which is provided in Appendix “A” to this Report PED25017. Staff’s comments are supportive of the amendments being proposed as they have the potential to improve the feasibility of office/commercial to residential conversion projects in the City to support new housing opportunities, expediate the approvals process and potentially allow Provincial staffing resources to be better directed to supporting remediation and redevelopment efforts on true brownfields.

It was further noted in the submitted comments to the Province that the City continues to support all efforts by the Province to identify additional opportunities to best utilize existing Provincial staffing resources and any new Provincial investments that would support efficient environmental approvals to facilitate brownfield remediation and redevelopment.

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not Applicable.

Staffing: Not Applicable.

Legal: Not Applicable.

HISTORICAL BACKGROUND

Environmental Regulations in Ontario respecting Record of Site Conditions

Contamination of properties (commonly referred to as brownfields) is a real and significant barrier to the redevelopment, reuse and intensification of historically developed areas of the City as the presence of contamination requires property owners/developers to remediate a site to meet applicable Provincial Site Condition Standards when a change to a more sensitive land use is proposed (such as an industrial or commercial site changing to a residential, parkland or institutional use).

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In such instances, the site must comply with various environmental regulations including that the owner successfully file a Record of Site Condition with the Province which confirms the site’s soil and groundwater meet the required site condition standards for the proposed use.

The Province’s regulatory regime is important to ensuring risks associated with contamination are mitigated in the community and do not pose a future health hazard. In particular, Record of Site Conditions are vitally important to creating an environment in which brownfields are viewed as viable opportunities for new development as the successful filing of a Record of Site Condition reduces the liability of property owners, municipalities, and others from potential environmental orders while also providing certainty to investors, future purchasers/tenants and the community that a property meets science-based standards for health and safety.

It is important to note that redevelopment of a property where there is no proposed change to a more sensitive land use, such as a site that is currently residential being redeveloped for a residential use, regardless of whether there is a change to the intensity/density of the use, are not subject to the Regulations. However, notwithstanding that the Regulations do not apply in such instances, property owners will commonly voluntarily adhere to the Regulations, remediate sites, and file Records of Site Condition to address potential liability concerns and/or abide by requirements of financial enders to mitigate project risk.

To provide context to the proposed Regulation changes discussed in this Report, a high-level summary of key studies and steps leading to a successful filing of a Record of Site Condition under current Regulations is provided (note that the following are required to be undertaken with the oversight of a Qualified Person as defined under the Regulations):

- Phase One Environmental Site Assessment - a desktop review of historical records to identify past and current uses on or in the vicinity of the subject site. Based on these findings, and common historical characteristics associated with certain uses/activities, the Qualified Person may identify Areas of Potential Environmental Concern and, if deemed a potential risk in terms of potentially having contaminated the site, recommend that a Phase Two Environmental Site Assessment be undertaken. When a Phase Two Environmental Site Assessment has been recommended, a Record of Site Condition cannot be filed based on the results of the Phase One Environmental Site Assessment only;

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SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 5 of 9

- Phase Two Environmental Site Assessment – this study includes the drilling of boreholes on a property to take soil samples and install groundwater monitoring wells to complete analytical testing. This testing confirms the condition of the site relative to the site condition standards required for the proposed use. Based on the testing, the Qualified Person will make a final determination as to whether site remediation will be required. If the results of the testing show the site meets the Province’s applicable standards for the proposed use, the property owner may proceed with filing a Record of Site Condition. If the results show the site does not meet required Site Condition Standards, a Record of Site Condition cannot be filed until the site is remediated to the satisfaction of the Province;
- Remedial Action Plan/Remediation - If a site is found to be contaminated for the purposes of a proposed use, the qualified person will develop a Remedial Action Plan outlining their recommended approach to addressing the contamination. This can include one or more of the following: excavation and disposal of soil at a licensed landfill (referred to as ‘dig and dump’), various forms of in-situ remediation or the undertaking of a Risk Assessment whereby site specific standards are established based on the nature and location of the contamination and allowing some or all of the contamination to be left in place, at the Province’s discretion, with health and safety measures addressed through a combination of risk mitigation measures incorporated into the site/building; and,
- Filing of a Record of Site Condition with the Province – the last step which certifies that the site has been remediated to the applicable Site Condition Standards required for the planned use. Record of Site Conditions filed with the Province are available for public information on the Province’s Access Environment webpage.

Currently under the Regulations, exemptions from Record of Site Condition filing requirements for changes in use to an existing commercial or community use building are provided if the following criteria are met:

- After the change, the property will continue to be used for commercial or community use, but with the addition of residential use, institutional use, or both;
- Before and after the change, the building will have no more than six storeys;
- The change in use (i.e., the intended residential or institutional uses) must be restricted to the floors above the ground floor;

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SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 6 of 9

- The property on which the building is located cannot be, and cannot have been historically, used for an industrial use, a garage, a bulk liquid dispensing facility, or for the operation of dry-cleaning equipment; and,
- The building envelope will not change and there will be no additions to the exterior portions of the building.

Environmental Registry of Ontario Posting 019-9310 “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment”

On November 20, 2024, Environmental Registry of Ontario Posting 019-9310 was published seeking comments on proposed amendments to the Regulations regarding Provincial requirements for the filing of Record of Site Conditions. The proposed amendments are generally understood to consist of the following:

- 1) Prohibiting the submission of a Record of Site Condition where a Phase One Environmental Site Assessment has been undertaken which has not identified potential environmental impacts that would require further investigation through a Phase Two Environmental Site Assessment. This amendment would prevent third party’s, such as municipalities or financial lenders, from requiring the property owner to submit a Record of Site Condition in such an instance but would not prevent a property owner who willfully seeks to file a Record of Site Condition for their own property;
- 2) Modifying current Record of Site Condition exemptions by:
 - a) Removing the six-storey cap on existing buildings which may be exempted from Record Site Condition filing requirements when being converted from a commercial or community use to one containing residential or other sensitive uses above the ground floor; and,
 - b) Permitting additions to the exterior of a commercial or community use building, including the creation of additional stories above the ground floor that expand beyond the existing ground floor footprint for residential or more sensitive land uses, from Record of Site Condition filing requirements.

SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 7 of 9

It is understood that proposed amendment 1) above is dependent on an enabling legislative amendment also being proposed as part of Bill 227, *Cutting Red Tape, Building Ontario Act, 2024* and could only be undertaken if the related legislative amendment is passed.

The commenting period for the posting closed on January 10, 2025, with staff having submitted the comments attached as Appendix “A” to Report PED25017 prior to the closing date. Staff have noted in the comments submitted that Council may choose to amend or add to the attached comments via a subsequent letter upon considering the comments at Planning Committee and City Council meetings occurring subsequent to the commenting period closing.

Past City Correspondence with the Province respecting Environmental Approval Timelines and Delays

As part of Council’s approval of an updated Environmental Remediation and Site Enhancement Community Improvement Plan and associated financial assistance programs for brownfields on April 26, 2023, City Council further passed the following resolution:

- “(e) That the City of Hamilton request the Province of Ontario invest provincial staff resources as required to avoid unnecessary provincial delays to the construction of new housing by ensuring timely approval of remediated sites in alignment with municipal approval timelines.”

A letter by the Mayor, on behalf of Council, was sent to the then Minister of Environment, Conservation and Parks and Minister of Municipal Affairs and Housing on May 14, 2023.

A copy of this letter is referenced in the comments submitted to the Province and contained in Appendix “A” to Report PED25017, this report.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Regulations respecting Records of Site Condition are established, and enforced by, the Province. Municipalities in Ontario, including Hamilton, are responsible for implementing and adhering to the requirements as it relates to proposed developments/changes of use on its own lands as well as requiring that Record of Site Conditions be filed when required under Regulation as a condition of approval under *Planning Act* applications as well as prior to issuing applicable Building Permits.

SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 8 of 9

The City’s Urban and Rural Hamilton Official Plans contain policies respecting requirements for Records of Site Condition. Planning Division staff have noted that existing policies are largely in compliance with the current and proposed Regulations and would not need amending should the proposed amended Regulations come into force, with the exception of minor clarifications and the following Policy:

“B.3.6.1.3 The City shall continue to identify other circumstances pertaining to specific development or redevelopment proposals where the filing of a Record of Site Condition may be required beyond those circumstances contemplated in Policy B.6.1.2. These circumstances may include the age of a building proposed for redevelopment, historic land use, and potential off-site sources of contamination.”

This Policy identifies other circumstances where the filing of a Record of Site Condition may be required by the City beyond that required under Provincial Regulations. It does not appear the circumstances listed are identified in the existing or proposed Regulations nor the *Environmental Protection Act*. As such, this Policy may need to be amended or deleted should the proposed amended Regulations come into force.

Direction for staff to undertake the required Official Plan amendment and bring forward to a future statutory public meeting of the Planning Committee are contained in Recommendation (d) to this Report PED25017.

RELEVANT CONSULTATION

A request for comment on the proposed amendments and submission letter was circulated by staff to various Divisions and Sections within the Planning and Economic Development, Public Works and Healthy and Safe Communities Departments including the Building Division, CityHousing Hamilton, Corporate Real Estate, Engineering Services, Environmental Services, Growth Management, Housing Secretariat, Light Rail Transit Project Office, Municipal Land Development Office, Planning Division and Transportation Planning. Staff were also encouraged to forward the circulation for comment to any other section/division which may be impacted but was not circulated.

Comments received have been incorporated into this Report and in the submission letter to the Province contained in Appendix “A” to Report PED252017, this report.

SUBJECT: City of Hamilton Response to the Province’s Proposed “Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment” - Amendments to Ontario Regulation 153/04 under the *Environmental Protection Act* (PED25017) (City Wide) - Page 9 of 9

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Staff recognize that when the current Record of Site Condition process is utilized unnecessarily or required by the Province in situations where risk to health and safety are very low, it can become burdensome and lead to Provincial resources being redirected from true brownfields resulting in delays in the remediation and redevelopment of lands for productive land uses.

As such, staff’s comments submitted to the Province were supportive of the amendments being proposed as they have the potential to improve the feasibility of office/commercial to residential conversion projects in the City to support new housing opportunities as well as potentially allow Provincial staffing resources to be better directed to supporting remediation and redevelopment efforts on true brownfields.

It has been further noted in the submitted comments to the Province that the City continues to support all efforts by the Province to identify additional opportunities to best utilize existing Provincial staffing resources and any new Provincial investments that would support efficient environmental approvals to facilitate brownfield remediation and redevelopment.

ALTERNATIVES FOR CONSIDERATION

Council may amend the staff-level comments attached as Appendix “A” to Report PED25017 or supplement the staff-level comments with additional comments.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED25017 – City of Hamilton comments to the Province on Proposed Amendments to Record of Site Condition requirements under Ontario Regulation 153/04



Hamilton

January 6, 2025

Province of Ontario
Ministry of the Environment, Conservation and Parks

Sent VIA ERO POSTING

Re: ERO Posting 019-9310 – Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment

Please find below and enclosed, on behalf of the City of Hamilton, comments for consideration respecting Environmental Registry of Ontario (ERO) 019-9310 and proposed amendments to Ontario Regulation 153/04 to prohibit the submission of a record of site condition (RSC) for filing in specified circumstances, and to expand an exemption from RSC filing requirements for changes in the use of buildings from commercial or community use to mixed use.

Hamilton Planning Committee and City Council will be reviewing these comments at their January 14, 2025 and January 22, 2025, meetings, respectively. Hamilton City Council may choose to amend or add to the enclosed comments which would be provided in a subsequent letter.

Background and Scope of Proposed Amendments

On November 20, ERO 019-9310 was published seeking comments on proposed amendments to Ontario Regulation 153/04 regarding Provincial requirements for the filing of RSCs. The proposed amendments are generally understood to consist of the following:

- 1) Prohibiting the submission of a RSC where a Phase One Environmental Site Assessment has been undertaken which has not identified potential environmental impacts that would require further investigation through a Phase Two Environmental Site Assessment. This amendment would prevent third party's, such as municipalities or financial lenders, from requiring the property owner to submit a RSC in such an instance but would not apply to a property owner who willfully seeks to file an RSC for their own property.
- 2) Modifying current RSC exemptions by:
 - a) Removing the six-storey cap on existing buildings which may be exempted from RSC filing requirements when being converted from a commercial or community use to one containing residential or other sensitive uses above the ground floor;

RE: ERO Posting 019-9310 – Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment
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- b) Permitting additions to the exterior of a commercial or community building, including the creation of additional stories above the ground floor that expand beyond the existing ground floor footprint for residential or more sensitive land uses, from RSC filing requirements.

It is understood that proposed amendment 1) above is dependent on an enabling legislative amendment also being proposed as part of *Bill 227, Cutting Red Tape, Building Ontario Act, 2024* and could only be undertaken if the related legislative amendment is passed.

City of Hamilton Comments

The City of Hamilton appreciates the opportunity to provide comments on these proposed regulatory amendments.

The City of Hamilton has long been recognized as a leader and champion of brownfield remediation and redevelopment having committed resources, including financial assistance programs that support remediation and redevelopment, for over 20 years. This commitment has resulted in brownfields supporting the needs of our community ranging from providing new market and affordable housing to supporting new economic investment and job creation, all while improving the environment, generating new assessment growth and tax revenue and reducing the need for urban sprawl.

Important to the City's success has been the Province's regulatory regime for RSCs which are vitally important to creating an environment in which brownfields are viewed as viable opportunities for new development by reducing the liability of property owners, municipalities, and others from potential environmental orders while also providing certainty to investors, future purchasers/tenants and the community that a property meets science-based standards for health and safety.

The City recognizes that when the current RSC process is utilized unnecessarily or required by the Province in situations where risk to health and safety are very low, it can become burdensome and lead to Provincial resources being redirected from true brownfields resulting in delays in the remediation and redevelopment of lands for productive land uses.

As such, the City of Hamilton is supportive of the amendments being proposed as they have the potential to improve the feasibility of office/commercial to residential conversion projects in the city to create new housing opportunities and potentially allow Provincial staffing resources to be better directed to supporting remediation and redevelopment efforts on true brownfields. Furthermore, the City provides the following comment for consideration:

- On May 14, 2023, Mayor Andrea Horwath submitted a letter on behalf of Hamilton City Council to the then Minister of Municipal Affairs and Housing and Minister of

**RE: ERO Posting 019-9310 – Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment
Page 3 of 5**

the Environment, Conservation and Parks in which the City expressed concerns respecting delays in Provincially required site remediation approvals that risked the timely uptake of municipal approvals intended to unlock the potential of brownfields. The letter requested further Provincial investment in Provincial staffing resources to support timely development approvals for brownfield sites.

The City continues to support all efforts by the province to identify additional opportunities to best utilize existing Provincial staffing resources and any new Provincial investments that would support efficient environmental approvals to facilitate brownfield remediation and redevelopment.

If you have any questions, please contact Phillip Caldwell RPP MCIP, Senior Project Manager – Urban Renewal, Economic Development Division at (905) 546-2424 x2359.

Regards,



Norm Schleeahn
Director of Economic Development
Economic Development Division
City of Hamilton

Attachment (1) – Letter from Mayor Andrea Horwath to the Minister of Municipal Affairs and Housing and the Minister of Environment, Conservation and Parks dated May 14, 2023.

cc: Dave Heyworth, Manager Sustainable Communities, Planning Division
Rob Lalli, Director Building Division and Chief Building Official

RE: ERO Posting 019-9310 – Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment
Page 4 of 5



OFFICE OF THE MAYOR
CITY OF HAMILTON

The Honourable David Piccini, M.P.P.
Minister of the Environment, Conservation and Parks
Ministry of the Environment, Conservation and Parks
5th Floor
777 Bay St
Toronto ON M5B 2H7
david.piccini@pc.ola.org

The Honourable Steve Clark, M.P.P.
Minister of Municipal Affairs and Housing
Ministry of Municipal Affairs and Housing
17th Floor
777 Bay St
Toronto ON M7A 2J3
steve.clark@pc.ola.org

May 14, 2023

Subject: City of Hamilton request for investment in Provincial staff resources to support timely development approvals for brownfield sites

Dear Minister Piccini and Minister Clark,

As you know, our Province is currently facing an unprecedented housing crisis – with our City having just declared an Emergency of Homelessness. We are looking at every possible opportunity for developing within our existing boundaries in order to not only meet the growing housing needs of our residents, but also to meet the provincial mandate to build 1.5 million houses by 2031. The City of Hamilton has long recognized the potential of Brownfields – vacant, derelict, and often under-utilized environmentally contaminated properties, as having untapped potential as areas for growth and redevelopment. Currently, this includes the provision of financial assistance programs which have supported the creation of over 3,300 residential units and 176,000 square metres of new commercial, industrial, and institutional use floor area on Hamilton brownfields since 2001.

Unfortunately, current delays in Provincially required site remediation approvals are risking the timely execution of the municipally required approvals intended to unlock the potential of these lands. These delays at the provincial level are having a profound impact on our City's ability to meet the needs of our residents.

RE: ERO Posting 019-9310 – Amendments to Reduce Records of Site Condition That Are Not Supporting Brownfields Redevelopment
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It is for this reason that Hamilton City Council passed a resolution on April 26, 2023 (Item 2 of the General Issues Committee Report 23-013) which reads as follows:

- "(e) That the City of Hamilton request the Province of Ontario invest provincial staff resources as required to avoid unnecessary provincial delays to the construction of new housing by ensuring timely approval of remediated sites in alignment with municipal approval timelines."

With the needed resources and timely supports, from both the City and the Province, we can revitalize brownfield sites and realize the potential for new housing and economic development.

Thank you in advance for your consideration and I look forward to speaking further in the near future.

Sincerely,



Andrea Horwath
Mayor

CC:

The Honourable Nina Tagri, Associate Minister of Housing

Colin Best, President, Association of Municipalities of Ontario



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2025
SUBJECT/REPORT NO:	Amendment to Schedule 11 (Payday Loans businesses) of Licensing By-law 07-170 and request for relocation of an existing payday loans business (PED25022) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Dan Smith (905) 546-2424 Ext. 6435
SUBMITTED BY:	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development
SIGNATURE:	

RECOMMENDATION

- a) That Council approve the request by Cash Money, located at 158 Highway 8, Ward 10, to relocate the existing payday loan business to a new address within Ward 10.
- b) That Council approve the amendments to the Licensing By-law 07-170, Schedule 11, attached as Appendix "A", to provide the Director of Licensing and By-law Services delegated authority to consider a location change under extenuating circumstances and update the list of licensed payday loan businesses within the City, which has been prepared in a form satisfactory to the City Solicitor, be approved and enacted.

EXECUTIVE SUMMARY

This report recommends Council approve a relocation and amendment to Schedule 11 of the Licensing By-law 07-170. First, the payday loan business located at 158 Highway 8 within Ward 10, has requested to move their business to a new location within Ward 10. Currently, Ward 10 has one municipally licensed payday loan business. This is the same business which wishes to relocate. A relocation would maintain the Ward at one (1) licensed payday loan business, however Council approval is required. Second, is to

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SUBJECT: Amendment to Schedule 11 (Payday Loans businesses) of Licensing By-law 07-170 and request for relocation of an existing payday loans business (PED25022) (City Wide) - Page 2 of 5

amend Schedule 11 to provide the Director of Licensing and By-law Services delegated authority to approve location changes under extenuating circumstances within wards which may have more than one (1) payday loans business licensed or where the number of City payday loans licenses exceeds fifteen as outlined in Appendix "A".

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not applicable

Staffing: Not applicable

Legal: Legal Services assisted with the preparation of the appended draft amending by-law attached as Appendix "A"

HISTORICAL BACKGROUND

At the City Council meeting on July 10, 2015, Council passed the following motion:

- a) That the Mayor be authorized to forward correspondence to the Province of Ontario, to the attention of the Minister of Consumer Services, requesting that the protections afforded by the *Payday Loans Act* be strengthened and that Municipalities be authorized to limit the number and regulate the locations of payday loan and cheque cashing outlets;
- b) That Staff be directed to research the feasibility of licensing payday loan and cheque cashing outlets to assist in consumer protection by requiring the businesses to post their rates, show comparative and annualized rates and information regarding debt counselling; and,
- c) That staff analyse and map payday loan and cheque cashing outlets in Hamilton and report back to Council on recommendations for alternative accessible financial services for Hamilton residents.

At its meeting on February 16, 2016, through report PED16039, Planning Committee approved the staff recommended Licensing By-law 07-170 amendment which created a licensing schedule for payday loans businesses.

On February 20, 2018, through report PED16039(a), Council approved an amendment to Schedule 11 of the Licensing By-law 07-170 which permitted the City to limit the number of payday loans businesses and the locations of the businesses. At the time of the amendment there were 30 payday loans businesses which were licensed by the City. This amendment limited the total number of licenses available to fifteen and one

SUBJECT: Amendment to Schedule 11 (Payday Loans businesses) of Licensing By-law 07-170 and request for relocation of an existing payday loans business (PED25022) (City Wide) - Page 3 of 5

(1) within each ward. As several payday loan businesses were previously licenced as part of the initial passing of schedule 11 in the Licensing By-law 07-170, these businesses are still permitted to operate provided they continue to operate within the regulations set forth at the same location.

In August 2024, staff received a notice that two separate licensed payday loan businesses located at 158 Highway 8, and 1392 Main St. E., would be making applications for new locations. The Licensing By-law 07-170 does not provide the authority to the Director of Licensing and By-Law Services to consider new applications under Schedule 11. As a result, should a payday loans business wish to change business locations, it requires Council approval.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Staff's review considered the following applicable Municipal and Provincial legislation:

- Licensing By-law 07-170, Schedule 11 (Payday Loans Businesses)
- *Municipal Act, 2001*
- *Payday Loans Act, 2008*

RELEVANT CONSULTATION

The following internal divisions and stakeholders were consulted:

- Corporate Services Department, Legal and Risk Management Services Division, Legal Services Section;
- Legal Services, City of Hamilton Light Rail Transit (LRT) division; and,
- Metrolinx.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Amendments to Bill 59 which received Royal Assent on December 12, 2017, and was proclaimed and put into force on January 1, 2018, relative to the *Municipal Act, 2001* and the *Payday Loans Act, 2008*, expands the City's authority to limit the number and location of payday loans establishments within the City.

Licensing By-law 07-170, Schedule 11 define a payday loan business as: *a person or entity licenced as a lender or a loan broker under the Payday Loans Act, 2008.*

Further, the Licensing By-law 07-170 Schedule 11 states that no new payday loans business shall be issued a licence for a location not listed in section 8, except if there are less than 15 total licenses in the City and less than one (1) licence per ward.

SUBJECT: Amendment to Schedule 11 (Payday Loans businesses) of Licensing By-law 07-170 and request for relocation of an existing payday loans business (PED25022) (City Wide) - Page 4 of 5

Should a request for a new payday loans licence be received, Council may consider a request to substitute a new location for an existing location provided the new location would not result in more than one licence per ward.

Recommendation “A”

The payday loan business located at 158 Highway 8 within Ward 10, has requested to move their business to a new location within Ward 10. Currently, Ward 10 has one municipally licensed payday loan business. This is the same business which wishes to relocate. A relocation would maintain the Ward at one (1) licensed payday loan business. As per Section 7 of the By-law, Council may consider a request to relocate provided there is no more than one payday loan business within the Ward. The request would fall within Council’s authority to consider the location change.

Recommendation “B”

The draft by-law amendment attached as Appendix “A” to report PED25022 grants the Director of Licensing and By-law Services the delegated authority to approve location changes under extenuating circumstances within wards which may have more than one (1) payday loans business licensed or where the number of City payday loans licenses exceeds fifteen.

The extenuating circumstances are defined in the draft by-law amendment, attached as Appendix “A” to report PED25022 and list natural disasters or other unforeseen events, health and safety concerns, changes in zoning or infrastructure and operational closure of premise as extenuating circumstances. Should the Director use their authority to approve a location change in one of these circumstances, the Director shall report any location change approved under this section to Council on an annual basis, providing the number of changes and the reasons for each approval.

In these extenuating circumstances, Licensing and By-law Services would review each application formally requesting a location transfer. Should the Director be in support of the request based on the circumstance, a relocation and new licence for the location may be applied for and staff would draft a by-law amendment to Section 8 of Schedule 11 of the By-law with the new location.

The business located at 1392 Main Street East, Hamilton, Cash Money, has requested a relocation specifically related to the expropriation of land by Metrolinx for the Hamilton Light Rail Transit project. Staff met with the business operators to understand the request. There is no language within the Licensing By-law 07-170 which would permit Council to consider a request for a location change in these types of circumstances. Staff consulted with the City Light Rail Transit office and staff from Metrolinx and has confirmed that the purchase of land at 1392 Main Street East for the purposes of the Light Rail Transit project took place in 2018. Further, the Plan of Expropriation was

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SUBJECT: Amendment to Schedule 11 (Payday Loans businesses) of Licensing By-law 07-170 and request for relocation of an existing payday loans business (PED25022) (City Wide) - Page 5 of 5

registered on August 13, 2024, to the business by Metrolinx. By registering the Plan of Expropriation, the Lease Agreement was extinguished, and Metrolinx was schedule to obtain possession on November 29, 2024.

Should the amendment, attached as Appendix “A” to Report PED25022 associated with recommendation “B” of report PED25022 be approved, the Director would have the delegated authority to formally review the request for relocation of the business currently located at 1392 Main Street East, Hamilton.

ALTERNATIVES FOR CONSIDERATION

Council may decide to not support the relocation of the payday loans business located within Ward 10 to an alternate, yet to be determined location within Ward 10.

Council may decide not to support the proposed by-law amendment to grant the Director of Licensing and By-law Services the delegated authority to consider a location change in extenuating circumstances.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED25022	Draft By-law to Amend By-law 07-170, being a By-law to License and Regulate Various Businesses, Schedule 11 Payday Loan Businesses
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Appendix “A” to Report PED25022
Page 1 of 3

Authority: Item
Report
CM:
Ward: City Wide

Bill No.

CITY OF HAMILTON

BY-LAW NO. 24- XXX

**To Amend By-law 07-170, being a By-law to License and Regulate Various
Businesses**

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS section 154.1 of the *Municipal Act*, 2001 authorizes the City of Hamilton to define the location and limit the number of payday loan establishments;

AND WHEREAS this By-law amends Schedule 11—Payday Loan Businesses of By-law 07-170;

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

1. That the amendments to this By-law include any necessary grammatical, numbering, and lettering changes;
2. That section 8 of Schedule 11 of By-law No. 07-170 be amended by deleting clauses (a), (d), (g), (h), (j), (l), (p), (q), (r), (s), (t), (y), (z), and (aa).
3. That section 8 of Schedule 11 of By-Law No. 07-17 be amended by adding section 8.1, such that section 8.1 will read:
 - 8.1 (a) Despite sections 6 and 8, the Director of Licensing and By-law Services may consider and approve a request for a change in location of a payday loan business within a ward that already has at least one licensed payday loan business and where the total number of licensed payday loan businesses exceeds 15, if the requesting payday loan business demonstrates extenuating circumstances.
 - (b) In considering the request contemplated in subsection (a), the Director of Licensing and By-law Services shall consider the following extenuating circumstances, which may include, but are not limited to:

Appendix “A” to Report PED25022**Page 2 of 3**

- (i) natural disasters or other unforeseen events—such as fire, flood, or structural damage to the current premises that renders it unfit for continued operation;
 - (ii) health and safety concern—where the current location presents significant health or safety hazards for customers or employees, and relocation is required to maintain compliance with applicable health and safety regulations;
 - (iii) Changes in zoning or infrastructure—if the current location is affected by changes in the City’s zoning by-laws or infrastructure projects that impact the ability to continue operations at the current location;
 - (iv) Operational Closure of Premises—where the landlord or property owner of the current premises has initiated actions that result in the permanent closure or termination of the lease for the payday loan business.
- (c) The Director of Licensing and By-law Services may approve a change in location under this provision only if:
- (i) the new location complies with all other requirements of this By-law, including zoning and land use policies;
 - (ii) the new location is within the same ward as the previous location; and,
 - (iii) the requesting payday loan business has provided sufficient evidence to support the existence of extenuating circumstances as outlined in subsection (b).
- (d) the Director of Licensing and By-law Services shall report any location change approved under this section to Council on an annual basis, providing the number of changes and the reasons for each approval.
4. That in all other respects, By-law 07-170 is confirmed; and,
5. That the provisions of this By-law shall become effective on the date that it is passed by City Council.

Appendix "A" to Report PED25022
Page 3 of 3

PASSED this _____ day of _____, 20_____.

A. Horwath
Mayor

M. Trennum
City Clerk



HAMILTON MUNICIPAL HERITAGE COMMITTEE REPORT 24-011

12:00 p.m.

December 13, 2024

Council Chambers, 2nd Floor (Hybrid)
Hamilton City Hall
71 Main Street West

Present: Councillor C. Kroetsch
A. Denham-Robinson (Chair), G. Carroll (Vice-Chair), K. Burke,
A. Douglas, L. Lunsted, A. MacLaren, L. Lunsted and
S. Spolnik (virtual)

THE HAMILTON MUNICIPAL HERITAGE COMMITTEE PRESENTS REPORT 24-011 AND RESPECTFULLY RECOMMENDS:

1. **Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) (Item 8.1)**
 - (a) That Heritage Permit Application HP2024-033, under Section 34 of the *Ontario Heritage Act*, for the demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111-113 Hughson Street North, Hamilton, be approved in accordance with the submitted Heritage Permit Application and the following conditions:
 - (i) That a Conservation Strategy, including a Conservation Plan, Interpretation/Commemoration Plan, Documentation and Salvage Report, Design Guidelines, and an Interim Conditions Plan outlining how the site conditions will be treated and managed following demolition and until redevelopment occurs, be submitted in accordance with the recommendations of the Cultural Heritage Impact Assessment prepared by +VG, dated September 30, 2024 (attached as Appendix "B" to Report PED24232), and their Addendum dated November 27, 2024 (attached as Appendix "C" to Report PED24232), to the satisfaction and approval of the Director of Planning and Chief Planner, prior to issuance of a Building Permit to Demolish any structures on the property;

- (ii) That the following conditions with respect to cost estimates and financial security shall be satisfied prior to the issuance of a Building Permit to demolish the former Tivoli Theatre structures:
- (1) The applicant shall provide cost estimates for either: (a) 100% of the total cost of implementing the Conservation Strategy, approved in accordance with Condition (i); or, (b) a minimum of \$1,000,000 to cover the approximate costs of implementing the Conservation Strategy, including salvaging representative plaster features, where feasible, and recreating the plaster detailing in a new development on the site, which may be approved in accordance with Condition (i) following demolition of the Tivoli Theatre structures. Such cost estimates shall be in the form satisfactory to the Director of Planning and Chief Planner, or be prepared in accordance with the Guides for estimating security requirements for landscaping and engineering;
 - (2) The applicant shall calculate the lump sum security payment, satisfactory to the City Solicitor, for works to the satisfaction of the Director of Planning and Chief Planner;
 - (3) The applicant shall provide Financial Instrument for security that is satisfactory to the City Solicitor such as the Letter of Credit (Policy), Surety Bond (Policy), or Certified Cheque/Bank Draft to the Director of Planning and Chief Planner for 100% of the total estimated cost as per Condition (ii)(1) in a form satisfactory to the City's Finance Department (Development Officer, Development Charges, Programs and Policies) to be held by the City as security for the completion of the on-site development works required in these conditions. Alternatively, the owner may choose to provide a lump sum payment for on-site works in accordance with Condition (ii)(2) above;
 - (4) The Security shall be kept in force, whether or not the ownership of 108 James Street North and 111-113 Hughson Street North, Hamilton, changes at any time, until the completion of the required site development works in conformity with this Heritage Permit HP2024-033, and securities may be reduced in accordance with the approved Financial Instrument Policies by the City Solicitor. If the Security is about to expire without renewal thereof and the works have not been completed in conformity with their approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion

unless the City Solicitor is provided with a replacement or renewal of the Security forthwith;

- (5) In the event that the Owner fails to complete, to the satisfaction of the Director of Planning and Chief Planner, the required site development works in conformity with this Heritage Permit within the time required, then the Owner shall permit the City, its employees, agents or contractors, at the City's sole option and in addition to any other remedies that the City may have, to enter on the lands and so complete the required site development works to the extent of monies received as Security. The cost of completion of such works shall be deducted from the monies obtained from the Security. In the event that there is a surplus, the City shall pay it forthwith to the Owner. In the event that there are required site development works remaining to be completed, the City may exercise its authority under (Section 446 of the *Municipal Act*) to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes and the Owner shall enter an agreement with the City to give effect to this Condition (ii)(5) and shall register this Agreement on title to the Property at the Owner's own expense;
- (iii) That the applicant submits a complete Zoning By-law Amendment application under the *Planning Act* for redevelopment of the site, in accordance with the Conservation Strategy approved as part of Condition (i), prior to issuance of a Building Permit to demolish the former Tivoli Theatre structures;
- (iv) That any minor changes to the approved scope of work shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to the commencement of any alterations;
- (v) That an initial scoped Conservation Plan and Documentation and Salvage Plan, assessing the feasibility of salvaging representative plaster features from the building, including details for their abatement and storage, be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to the commencement of the removal of interior plaster features;
- (vi) That the demolition, in accordance with this approval, shall be completed no later than January 31, 2026. If the alteration(s) are not completed by January 31, 2026, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton; and,

- (vii) That the Director of Planning and Chief Planner be authorized to approve a request to extend the date noted in Condition (vi) of this approval if that request is submitted prior to the expiry and if progress is being made to their satisfaction.
- (b) That the Director of Planning and Chief Planner be authorized to execute an Agreement with the owner(s) of 108 James Street North and 111-113 Hughson Street North, Hamilton, satisfactory to the City Solicitor, to be registered on title by the owner(s) and to give effect to Recommendation (a) (ii) (5) of Report PED24232; and,
- (c) That staff be directed to repeal Designation By-law Nos. 04-256 (Tivoli Auditorium) and 90-255 (Tivoli Lobby) following implementation of the recommendations of the Conservation Strategy approved as part of Recommendation (a)(i) of Report PED24232.

G. Carroll and A. Douglas requested to be recorded as OPPOSED to the above motion.

2. Hamilton Municipal Heritage Committee Year in Review, 2024 (PED24235) (City Wide) (Item 9.1)

That Report PED24235 respecting Hamilton Municipal Heritage Committee Year in Review, 2024, be received.

3. Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) (Item 10.1)

That the non-designated property located at 537 King Street East, Hamilton, be removed from the Municipal Heritage Register.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

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

6. DELEGATION REQUESTS

- 6.1 Delegation Requests respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton

(PED24232) (Ward 2), for today's meeting, from the following individuals:

- (a) Carol Priamo, Beasley Neighbourhood Association (In-Person)
- (b) Dr. Diane Dent (In-Person)

8. STAFF PRESENTATIONS

- 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) – PRESENTATION ADDED

9. CONSENT ITEMS

- 9.1 Hamilton Municipal Heritage Committee Year in Review, 2024 (PED24235) (City Wide) – PRESENTATION ADDED
- 9.3 Heritage Permit Review Sub-Committee Minutes (November 12, 2024)

The agenda for the December 13, 2024, Hamilton Municipal Heritage Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

A. Denham-Robinson declared a disqualifying interest to Item 5.1 - Correspondence respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2), as the owner of the project is a client of the architectural firm she works with.

A. Denham-Robinson declared a disqualifying interest to Item 6.1 - Delegation Requests respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2) as the owner of the project is a client of the architectural firm she works with.

A. Denham-Robinson declared a disqualifying interest to Item 7.1 - Delegation respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2) as the owner of the project is a client of the architectural

firm she works with.

A. Denham-Robinson declared a disqualifying interest to Item 8.1 - Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2), as the owner of the project is a client of the architectural firm she works with.

A. Denham-Robinson declared a disqualifying interest to Item 10.1 - Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3), as the architecture firm she works with is involved with the project.

Due to the above declared conflicts A. Denham-Robinson refrained from voting on the above matters.

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

(i) November 22, 2024 (Item 4.1)

The Minutes of the November 22, 2024, meeting of the Hamilton Municipal Heritage Committee, were approved, as presented.

(d) COMMUNICATIONS (Item 5)

Due to a declared conflict on Item 5.1, A. Denham-Robinson relinquished the Chair to G. Carroll.

(i) The following Communication Items were approved, as presented:

(a) Correspondence respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2), from the following individuals (Item 5.1):

(i) Tim Potocic (Item 5.1(a))

(ii) Janice Brown (Item 5.1(b))

Recommendation: Be received and referred to the consideration of Item 8.1.

A. Denham-Robinson assumed the Chair.

(ii) The following Communication Items were approved, as presented:

- (a) Correspondence from Anita Fabac, Acting Director Planning and Chief Planner, respecting Notice of Intention to Designate the following properties under Part IV of the *Ontario Heritage Act* (Item 5.2):
- (i) 134 Cannon Street East, Hamilton (Cannon Knitting Mills) (Item 5.2(a))
 - (ii) 21-25 Jones Street, Stoney Creek (The Powerhouse) (Item 5.2(b))
 - (iii) 2251 Rymal Road East, Stoney Creek (Former Elfrida United Church) (Item 5.2(c))

Recommendation: Be received.

- (b) Correspondence from Anita Fabac, Acting Director Planning and Chief Planner, respecting Notice of Passing of By-law No. 24-199 to Designate 7 Rolph Street, Dundas under Part IV of the *Ontario Heritage Act* (Item 5.3)

Recommendation: Be received.

- (c) Correspondence from Anita Fabac, Acting Director Planning and Chief Planner, respecting Notice of Passing of By-law No. 24-200 to Designate 634 Rymal Road West, Hamilton (Union School Section No. 3) under Part IV of the *Ontario Heritage Act* (Item 5.4)

Recommendation: Be received.

- (d) Correspondence from Anita Fabac, Acting Director Planning and Chief Planner, respecting Heritage Permit Application HP2024-037: Removal of Dead and Unsafe Trees at 610 York Boulevard, Hamilton (Ward 1) (Dundurn Castle, By-law No. 77-239) (Item 5.5)

Recommendation: Be received.

(e) DELEGATION REQUESTS (Item 6)

Due to a declared conflict on the following items, A. Denham-Robinson relinquished the Chair to G. Carroll:

- (i) The Delegation Requests respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2), were

approved, for today's meeting, from the following individuals (Added Item 6.1):

- (a) Carol Priamo, Beasley Neighbourhood Association (In-Person) (Added Item 6.1(a))
- (b) Dr. Diane Dent (In-Person) (Added Item 6.1(b))

(f) DELEGATIONS (Item 7)

- (i) The Hamilton Municipal Heritage Committee recessed for 10 minutes until 12:21 p.m. to resolve technical issues.

The Hamilton Municipal Heritage Committee reconvened at 12:21 p.m.

- (ii) **Delegations respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2) (Added Item 7.1)**

- (1) The following delegates addressed the Committee respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2):

- (a) Carol Priamo, Beasley Neighbourhood Association (In-Person) (Added Item 7.1(a))
- (b) Dr. Diane Dent (In-Person) (Added Item 7.1(b))

- (2) The following delegations respecting Item 8.1 Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2), were received:

- (a) Carol Priamo, Beasley Neighbourhood Association (In-Person) (Added Item 7.1(a))
- (b) Dr. Diane Dent (In-Person) (Added Item 7.1(b))

(g) STAFF PRESENTATIONS (Item 8)

- (i) Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) (Item 8.1)**

Alissa Golden, Cultural Heritage Program Lead introduced Paul John Sapounzi, Chief Executive Officer +VG Architects, Dan Wojcik, Chief Operating Officer, +VG Architects, Deb Westman, Senior Project Manager, +VG Architects, Edward John, Partner/Principal Planner, Landwise, Jonathan Dee, Principal, John G. Cooke & Associates and Andry Andriotis, Partner, Access Environmental Solutions, who addressed Committee respecting Report PED24232, Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton, with the aid of a PowerPoint presentation.

The presentation from Paul John Sapounzi, Chief Executive Officer +VG Architects, Dan Wojcik, Chief Operating Officer, +VG Architects, Deb Westman, Senior Project Manager, +VG Architects, Edward John, Partner/Principal Planner, Landwise, Jonathan Dee, Principal, John G. Cooke & Associates and Andry Andriotis, Partner, Access Environmental Solutions, respecting Report PED24232, Heritage Permit Application HP2024-033, Under Section 34 of the *Ontario Heritage Act*, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton, was received.

For disposition of this matter and refer to Item 1.

A. Denham-Robinson assumed the Chair.

- (ii)** The Hamilton Municipal Heritage Committee recess for 10 minutes until 3:00 p.m.

The Hamilton Municipal Heritage Committee reconvened at 3:00 p.m.

(h) CONSENT ITEMS (Item 9)

- (i)** The following Consent Items were received:
- (a) Education and Communication Working Group Meeting Notes (Item 9.2)
- (i) October 2, 2024 (Designated Property Plaquing Policy Review) (Item 9.2(a))

(ii) October 2, 2024 (HMHC Heritage Recognition Awards Review) (Item 9.2(b))

(b) Heritage Permit Review Sub-Committee Minutes (November 12, 2024) (Added Item 9.3)

(i) DISCUSSION ITEMS

Due to a declared conflict on the following item A. Denham-Robinson relinquished the Chair to G. Carroll:

(i) Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) (Item 10.1)

For disposition of this matter, refer to Item 3.

A. Denham-Robinson assumed the Chair.

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

(i) Buildings and Landscapes (Item 13.1)

Committee members provided brief updates on properties of interest.

(a) 537 King Street East, Rebel's Rock (R) was removed from the Endangered Buildings and Landscapes (RED) listing.

That the following updates were received:

(a) Endangered Buildings and Landscapes (RED):
(Red = Properties where there is a perceived immediate threat to heritage resources through: demolition; neglect; vacancy; alterations, and/or, redevelopment)

Ancaster

- (1) 372 Butter Road West, Andrew Sloss House (D) – S. Spolnik
- (2) 1021 Garner Road East, Lampman House (D) – S. Spolnik
- (3) 398 Wilson Street East, Marr House (D) – S. Spolnik

Dundas

- (4) 2 Hatt Street (R) – K. Burke
- (5) 216 Hatt Street (I) – K. Burke
- (6) 215 King Street West (R) – K. Burke
- (7) 219 King Street West (R) – K. Burke

Glanbrook

- (8) 2235 Upper James Street (R) – G. Carroll

Hamilton

- (9) 80-92 Barton Street East, Former Hanrahan Hotel (R) – S. Spolnik
(10) 1155-1157 Beach Boulevard, Beach Canal Lighthouse and Cottage (D) – A. Denham-Robinson
(11) 66-68 Charlton Avenue West (D) – C. Kroetsch
(12) 71 Claremont Drive, Auchmar Gate House / Claremont Lodge (R) – G. Carroll
(13) 711 Concession Street, Former Mount Hamilton Hospital, 1932 Wing (R) – G. Carroll
(14) 127 Hughson Street North, Firth Brothers Building (D) – C. Kroetsch
(15) 163 Jackson Street West, Pinehurst / Television City (D) – C. Kroetsch
(16) 108 James Street North, Tivoli (D) – C. Kroetsch
(17) 98 James Street South, Former James Street Baptist Church (D) – C. Kroetsch
(18) 18-22 King Street East, Gore Buildings (D) – C. Kroetsch
(19) 24-28 King Street East, Gore Buildings (D) – C. Kroetsch
(20) 537 King Street East, Rebel's Rock (R) – G. Carroll
(21) 378 Main Street East, Cathedral Boys School (R) – S. Spolnik
(22) 679 Main Street East / 85 Holton Street South, Former St. Giles Church (I) – G. Carroll
(23) 120 Park Street North (R) – C. Kroetsch
(24) 828 Sanatorium Road, Long and Bisby Building (D) – G. Carroll
(25) 100 West 5th Street, Century Manor (D) – G. Carroll

- (b) Buildings and Landscapes of Interest (YELLOW):
(Yellow = Properties that are undergoing some type of change, such as a change in ownership or use, but are not perceived as being immediately threatened)

Dundas

- (1) 64 Hatt Street, Former Valley City Manufacturing (D) – K. Burke
(2) 24 King Street West, Former Majestic Theatre (I) – K. Burke
(3) 3 Main Street, Former Masonic Lodge (D) – K. Burke
(4) 23 Melville Street, Knox Presbyterian Church (D) – K. Burke

- (5) 574 Northcliffe Avenue, St. Joseph's Motherhouse (R) – L. Lunsted
Lunsted

Flamborough

- (6) 283 Brock Road, WF Township Hall (D) – L. Lunsted
- (7) 62 6th Concession East, Hewick House (I) – L. Lunsted

Hamilton

- (8) 1 Balfour Drive, Chedoke Estate / Balfour House, (R) – G. Carroll
- (9) 134 Cannon Street East, Cannon Knitting Mill (R) – C. Kroetsch
- (10) 52 Charlton Avenue West, Former Charlton Hall (D) – C. Kroetsch
- (11) 2 Dartnall Road, Rymal Road Station Silos (R) – G. Carroll
- (12) 54-56 Hess Street South (D) – C. Kroetsch
- (13) 1284 Main Street East, Delta High School (D) – G. Carroll
- (14) 311 Rymal Road East (R) – G. Carroll
- (15) St. Clair Boulevard Heritage Conservation District (D) – G. Carroll
- (16) 56 York Boulevard / 63-76 MacNab Street North, Copley Building (D) – G. Carroll
- (17) 84 York Boulevard, Philpott Church (NOID) – G. Carroll
- (18) 175 Lawrence Road, Hamilton Pressed / Century Brick (R) – G. Carroll
- (19) 65 Charlton Avenue East, Church of Ascension (D, NHS), Hamilton – G. Carroll
- (20) 4 Turner Avenue, Hamilton (R) – C. Kroetsch
- (21) 420 King St E, St. Patrick Roman Catholic Church (I) – S. Spolnik
- (22) 206-210 King Street East, Former Bremner Grocery (I) – G. Carroll
- (23) 1269 Mohawk Road, Ancaster (I) – G. Carroll
- (24) 657 King Street East, Hamilton (R) – G. Carroll
- (25) 665-667 King Street East, Hamilton (R) – G. Carroll
- (26) 90 Markland, Hamilton (D) – C. Kroetsch
- (27) 231 Bay St. N. (Gallery on the Bay/Hamilton Bridge Works Company Office) (I) – C. Kroetsch
- (28) 29 Harriet Street (Felton Brush Company) (I) – C. Kroetsch
- (29) 33 Bowen Street (Bradley Stable, Court House Hotel Stable) (R) – C. Kroetsch

Stoney Creek

- (30) 2251 Rymal Road East, Former Elfrida Church (R) – G. Carroll

- (c) Heritage Properties Update (GREEN):
(Green = Properties whose status is stable)

Dundas

- (1) 104 King Street West, Former Post Office (R) – K. Burke

Hamilton

- (2) 46 Forest Avenue, Rastrick House (D) – G. Carroll
(3) 88 Fennell Avenue West, Auchmar (D) – A. Douglas
(4) 125 King Street East, Norwich Apartments (R) – C. Kroetsch
(5) 206 Main Street West, Arlo House (R) – C. Kroetsch
(6) 50-54 Sanders Boulevard, Binkley Property (R) – K. Burke

- (d) Heritage Properties Update (BLACK):
(Black = Properties that HMHC have no control over and may be demolished)

Ancaster

- (1) 442, 450 and 452 Wilson Street East (R) – S. Spolnik

Heritage Status: (I) Inventoried, (R) Registered, (D) Designated,
(NHS) National Historic Site

(k) ADJOURNMENT (Item 15)

There being no further business, the Hamilton Municipal Heritage Committee, adjourned, at 3:14 p.m.

Respectfully submitted,

Alissa Denham-Robinson
Chair, Hamilton Municipal
Heritage Committee

Graham Carroll
Vice-Chair, Hamilton Municipal
Heritage Committee

Matt Gauthier
Legislative Coordinator
Office of the City Clerk



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
 Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	December 13, 2024
SUBJECT/REPORT NO:	Heritage Permit Application HP2024-033, Under Section 34 of the <i>Ontario Heritage Act</i> , for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 - 113 Hughson Street North, Hamilton (PED24232) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Alissa Golden (905) 546-2424 Ext. 1202
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That Heritage Permit Application HP2024-033, under Section 34 of the *Ontario Heritage Act*, for the demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111-113 Hughson Street North, Hamilton, be **approved** in accordance with the submitted Heritage Permit Application and the following conditions:
 - (i) That a Conservation Strategy, including a Conservation Plan, Interpretation/Commemoration Plan, Documentation and Salvage Report, Design Guidelines, and an Interim Conditions Plan outlining how the site conditions will be treated and managed following demolition and until redevelopment occurs, be submitted in accordance with the recommendations of the Cultural Heritage Impact Assessment prepared by +VG, dated September 30, 2024 (attached as Appendix “B” to Report PED24232), and their Addendum dated November 27, 2024 (attached as Appendix “C” to Report PED24232), to the satisfaction and approval of the

SUBJECT: Heritage Permit Application HP2024-033, Under Section 34 of the Ontario Heritage Act, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) - Page 2 of 20

Director of Planning and Chief Planner, prior to issuance of a Building Permit to Demolish any structures on the property;

- (ii) That the following conditions with respect to cost estimates and financial security shall be satisfied prior to the issuance of a Building Permit to demolish the former Tivoli Theatre structures:
- (1) The applicant shall provide cost estimates for either: (a) 100% of the total cost of implementing the Conservation Strategy, approved in accordance with Condition (i); or, (b) a minimum of \$1,000,000 to cover the approximate costs of implementing the Conservation Strategy, including salvaging representative plaster features, where feasible, and recreating the plaster detailing in a new development on the site, which may be approved in accordance with Condition (i) following demolition of the Tivoli Theatre structures. Such cost estimates shall be in the form satisfactory to the Director of Planning and Chief Planner, or be prepared in accordance with the Guides for estimating security requirements for landscaping and engineering;
 - (2) The applicant shall calculate the lump sum security payment, satisfactory to the City Solicitor, for works to the satisfaction of the Director of Planning and Chief Planner;
 - (3) The applicant shall provide Financial Instrument for security that is satisfactory to the City Solicitor such as the Letter of Credit (Policy), Surety Bond (Policy), or Certified Cheque/Bank Draft to the Director of Planning and Chief Planner for 100% of the total estimated cost as per Condition (ii)(1) in a form satisfactory to the City's Finance Department (Development Officer, Development Charges, Programs and Policies) to be held by the City as security for the completion of the on-site development works required in these conditions. Alternatively, the owner may choose to provide a lump sum payment for on-site works in accordance with Condition (ii)(2) above;
 - (4) The Security shall be kept in force, whether or not the ownership of 108 James Street North and 111-113 Hughson Street North, Hamilton, changes at any time, until the completion of the required site development works in conformity with this Heritage Permit HP2024-033, and securities may be reduced in accordance with

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the approved Financial Instrument Policies by the City Solicitor. If the Security is about to expire without renewal thereof and the works have not been completed in conformity with their approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion unless the City Solicitor is provided with a replacement or renewal of the Security forthwith;

- (5) In the event that the Owner fails to complete, to the satisfaction of the Director of Planning and Chief Planner, the required site development works in conformity with this Heritage Permit within the time required, then the Owner shall permit the City, its employees, agents or contractors, at the City's sole option and in addition to any other remedies that the City may have, to enter on the lands and so complete the required site development works to the extent of monies received as Security. The cost of completion of such works shall be deducted from the monies obtained from the Security. In the event that there is a surplus, the City shall pay it forthwith to the Owner. In the event that there are required site development works remaining to be completed, the City may exercise its authority under (Section 446 of the *Municipal Act*) to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes and the Owner shall enter an agreement with the City to give effect to this Condition (ii)(5) and shall register this Agreement on title to the Property at the Owner's own expense;
- (iii) That the applicant submits a complete Zoning By-law Amendment application under the *Planning Act* for redevelopment of the site, in accordance with the Conservation Strategy approved as part of Condition (i), prior to issuance of a Building Permit to demolish the former Tivoli Theatre structures;
- (iv) That any minor changes to the approved scope of work shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to the commencement of any alterations;
- (v) That an initial scoped Conservation Plan and Documentation and Salvage Plan, assessing the feasibility of salvaging representative plaster features from the building, including details for their abatement and storage, be submitted, to the satisfaction and approval of the Director of Planning and

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Chief Planner, prior to the commencement of the removal of interior plaster features;

- (vi) That the demolition, in accordance with this approval, shall be completed no later than January 31, 2026. If the alteration(s) are not completed by January 31, 2026, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton; and,
 - (vii) That the Director of Planning and Chief Planner be authorized to approve a request to extend the date noted in Condition (vi) of this approval if that request is submitted prior to the expiry and if progress is being made to their satisfaction.
- (b) That the Director of Planning and Chief Planner be authorized to execute an Agreement with the owner(s) of 108 James Street North and 111-113 Hughson Street North, Hamilton, satisfactory to the City Solicitor, to be registered on title by the owner(s) and to give effect to Recommendation (a) (ii) (5) of Report PED24232; and,
- (c) That staff be directed to repeal Designation By-law Nos. 04-256 (Tivoli Auditorium) and 90-255 (Tivoli Lobby) following implementation of the recommendations of the Conservation Strategy approved as part of Recommendation (a)(i) of Report PED24232.

EXECUTIVE SUMMARY

This Report addresses Heritage Permit application HP2024-033, for the demolition of the Tivoli lobby (circa 1908) and auditorium (circa 1924) structures located at 108 James Street North and 111-113 Hughson Street North, Hamilton (see Appendix "A" attached to Report PED24232). The subject property is designated under Part IV of the *Ontario Heritage Act* by By-law Nos. 90-255 and 04-256.

This Heritage Permit application to demolish requires consultation with the Heritage Permit Review Subcommittee and the Hamilton Municipal Heritage Committee before consideration by Planning Committee and a final decision of Council. Council is required to make the final decision on this Heritage Permit application within 90 days of an application being deemed complete, being March 2, 2025.

The Heritage Permit Review Subcommittee reviewed the subject application at their meeting on November 12, 2024, and recommended refusal of the application. Staff

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requested additional information from the applicant following the Subcommittee meeting to address questions and concerns that were raised during the discussion. This information includes an outline estimated cost of \$5.875 million to return the building to an occupiable state and additional structural information from an engineer with recognized heritage expertise. This Report considers that additional documentation.

Heritage Permit application HP2024-033 was submitted to address the deteriorated state of the historic structures on site and in anticipation of future *Planning Act* applications for redevelopment of the subject property and the adjacent parcels located at 1 Wilson Street and 115 Hughson Street North. Cultural Heritage and Development Planning staff reviewed the initial development concept through Formal Consultation application FC-23-053, which proposed a mixed-use building consisting of two towers (35 and 40 storeys) containing 875 dwelling units, 948 sq. m. of commercial space, and 716 sq. m. of event space intended to commemorate the former Tivoli Theatre. Cultural Heritage staff noted that a Cultural Heritage Impact Assessment would be required to support future *Planning Act* applications, as well as the Heritage Permit to demolish the Tivoli auditorium and lobby.

Staff have evaluated the Cultural Heritage Impact Assessment submitted with Heritage Permit application HP2024-033, which was informed by accompanying structural and environmental reports (see Appendix “B” attached to Report PED24232) and the supplemental Addendum provided after the Heritage Permit Review Subcommittee meeting which included documentation from the heritage consultant, an engineer with demonstrated heritage experience and an abatement company (see Appendix “C” attached to Report PED24232). These documents identify that the existing building and interior heritage features cannot be feasibly retained and restored in place and should be demolished as soon as possible. The remaining Tivoli Theatre structures are in an advanced state of deterioration that would require significant reconstruction of the building envelope to make it safe to occupy and the designated interior elements of the former theatre and lobby would be required to be removed to facilitate the reconstruction of the building envelope.

The applicant proposes measures to interpret and commemorate the former Tivoli Theatre as part of future redevelopment on site by:

- Providing an event space in the new development paying homage to the former Tivoli Theatre interior design with replicated plaster details;
- Commemorating the former Tivoli Theatre in a public interpretive centre and theatre lobby accessible from James Street North;

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- Interpreting the architecture of the former Theatre complex fronting onto James Street North in the podium of the new development, including a new marquee; and,
- Thoroughly documenting the existing building and spaces prior to demolition, which will also inform the interpretive centre materials.

Therefore, staff recommend approval of Heritage Permit application HP2024-033 to demolish the remaining lobby and auditorium structures of the former Tivoli Theatre, subject to conditions to ensure that the proposed commemoration and interpretation measures are implemented, including the:

- Preparation of an initial scoped Conservation Plan and Documentation and Salvage Plan assessing the feasibility of salvaging representative plaster features from the building prior to their removal (Condition (v));
- Preparation of a comprehensive Conservation Strategy to guide future redevelopment on site prior to demolition, including a Conservation Plan, Interpretation/Commemoration Plan, Documentation and Salvage Report, Design Guidelines for the new development, and an Interim Conditions Plan outlining how the site conditions will be treated and managed following demolition and until redevelopment occurs (Condition (i));
- Provision of financial securities to implement the Conservation Strategy, prior to demolition (Condition (ii)); and,
- Submission of a complete application for the required Zoning By-law Amendment under the *Planning Act* for redevelopment, prior to demolition (Condition (iii)).

This Report also recommends that staff repeal Designation By-law Nos. 90-255 and 04-256 following implementation of Heritage Permit application HP2024-033, specifically the Conservation Strategy actions for interpretation and commemoration in the new development (Recommendation (c) of this Report).

Alternatives for Consideration – See Page 19

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The approximate total 2024 tax amount for the subject property, which includes the remaining Tivoli Theatre structures at 108 James Street North/111-113 Hughson Street North, and the dwelling located at 115 Hughson Street North (not subject to this Heritage Permit application) is \$39,982. The municipal share is approximately \$29,979 and the provincial education share is approximately \$10,003. If the Tivoli Theatre structures are demolished, a portion of the commercial taxes may be reduced.

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Staffing: None.

Legal: The *Ontario Heritage Act* requires that the City make a decision on a Heritage Permit application 90 days after a Notice of Complete Application is served on the applicant, or after the end of a 60-day period from the day an application is received if it is not deemed complete within that period. The subject Heritage Permit Application HP2024-033 was received on October 3, 2024. The application was deemed complete on December 2, 2024, and a decision of Council is required by March 2, 2025.

By-law No. 05-364, as amended by By-law No. 07-322, delegates the power to consent to alterations to designated property under the *Ontario Heritage Act* to the Director of Planning and Chief Planner. However, the delegated powers in Section 1 do not include the power to refuse an application or to approve an application under Section 34(1)1 to demolish or remove. The subject application proposes the complete demolition and removal of the former Tivoli lobby and auditorium structures, subject to Section 34 of the *Ontario Heritage Act*, and therefore require a decision of Council, as advised by the Hamilton Municipal Heritage Committee.

As per Section 34(4.2), the notice of Council's decision will be required to be served on the owner of the property, the Ontario Heritage Trust and shall be published in a newspaper having general circulation in the municipality. If Council consents to the application subject to terms or conditions, or refuses the application, the owner of the property may appeal Council's decision to the Ontario Land Tribunal within 30 days of receiving notice of Council's decision.

HISTORICAL BACKGROUND

The subject property, known as the former Tivoli Theatre, municipally addressed as 108 James Street North and 111-113 Hughson Street North, Hamilton (see Appendix "A" attached to Report PED24232) is protected by two designation By-laws (90-255 and 04-256) that collectively protect what remains of the former Tivoli lobby (circa 1908) and auditorium (circa 1924) structures on the property under Part IV of the *Ontario Heritage Act*. Only interior features remain that are protected by designation and the exterior brick facades are not considered to be heritage attributes.

Building Collapse and Partial Demolition, 2004

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In 2004, the western portion of the former theatre collapsed due to structural failure of its south façade and partial demolition was required to stabilize the building and render it safe and secure, resulting in the removal of the former carriage factory structure (circa 1875) which fronted onto James Street North that was designed in the Second Empire style of architecture (see Reports PD04204 and PD04280).

Following the partial demolition, the property transferred ownership several times. In 2008, the City issued a grant for building stabilization and heating improvements and in 2010 the City advanced an interest free loan to fund repairs to the theatre's roof, which was fully repaid in 2013.

Previous Zoning By-law Amendment and Heritage Permit Applications, 2014-2016

On December 1, 2014, a Zoning By-law Amendment application (ZAR-15-001) was submitted proposing redevelopment of the site to construct a new 22-storey mixed-use building including retention and integration of the former Tivoli Theatre. After considerations by Planning Committee and Council, zoning by-law amendments were approved on August 14, 2015, as part of By-law No. 15-188, to permit restoration of the theatre auditorium and a 22-storey mixed-use building, consisting of accessory commercial and residential uses (see Reports PED15029(a) and PED15029(b)).

By-law No. 15-188 identifies permitted uses for the subject lands, specifically the use of a theatre within the existing building identified as 111 Hughson Street North at the time of passing of the by-law, and a 106-unit multiple dwelling and associated commercial uses on lands identified as 108 James Street North, only in conjunction with, and accessory to, the existing theatre auditorium.

On December 14, 2016, Council approved Heritage Permit application HP2016-041 in support of implementation of the redevelopment proposal, which required demolition of the former Tivoli lobby, however the lobby was never demolished and the Heritage Permit expired.

In 2015, the City approved grant funding for the preparation of a Conservation Plan for the Tivoli auditorium to facilitate its restoration, which was extended until 2018, but was not completed and no funding was issued.

New Ownership and Redevelopment Proposal, 2022-2023

On March 31, 2022, Adventus Development Corporation, in partnership with Society Developments Inc., announced its acquisition of the former Tivoli Theatre property and the neighbouring Centre Point Plaza (1 Wilson Street), indicating their plan to "breathe new life" into the Tivoli.

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In May 2023, the City received a Formal Consultation application (FC-23-053) for the subject property and the adjacent properties located at 115 Hughson Street North and 1 Wilson Street, for the demolition of all buildings on site (including the Tivoli auditorium and lobby) to establish a mixed-use building consisting of one 40-storey tower and one 35-storey tower, with a total of 875 dwelling units, 948 sq. m of commercial space and 716 sq. m of event space, with the event space meant to commemorate the site's previous use as a theatre.

Cultural Heritage Planning staff provided comment on the Formal Consultation application, noting that the proposal did not address the conservation of the designated Tivoli Theatre structure or compatibility with the historic Beasley neighbourhood and James Street North historic streetscape. Cultural Heritage Planning staff advised the applicant that, without an approved Heritage Permit to demolish the building, any subsequent *Planning Act* applications would be considered premature. Staff further advised of the requirement to provide a Cultural Heritage Impact Assessment with future development applications. The Formal Consultation Document noted that the proposal required an Urban Official Plan Amendment, Secondary Plan Amendment and Zoning By-law Amendment to facilitate the proposal. Further, the proposal would also require a Site Plan Control application.

Heritage Permit, 2023-2024

In October 2023, Cultural Heritage Planning staff attended the site and had a pre-consultation meeting with heritage consultants for the owner and advised them what materials would be required with the submission of a Heritage Permit application to demolish the theatre, with the understanding that, at the time, the goal was to try to salvage representative features of the decorative plasterwork, where feasible, and take moulds and paint samples of the remaining plaster work in the hopes of recreating and reimagining it into a new theatre space as part of a redevelopment on site. Staff strongly recommended that the applicant undertake pre-consultation with the Heritage Permit Review Subcommittee before submitting a complete Heritage Permit application. Staff met with representatives for the owner in December 2023, reiterating the strong recommendation for pre-consultation with the Subcommittee and the submission requirements for a Heritage Permit application to demolish.

Between July and August 2024, staff reviewed draft Cultural Heritage Impact Assessment reports from the applicant to provide preliminary feedback and comment and outlined the administrative steps for processing a Heritage Permit application once submitted. The subject Heritage Permit application was submitted on October 3, 2024. The Heritage Permit Review Subcommittee considered the application at their meeting

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on November 12, 2024, and recommended refusal. The city received two written delegations about the application that were included on the November 12, 2024, Heritage Permit Review Subcommittee agenda for their consideration as part of their review of the application. The delegates did not support the proposed demolition. Following the Subcommittee meeting, staff reached out to the applicant to request additional information to address concerns and questions raised by the members, public and local Councillor, including:

1. Clarity on the severity of the structural issues and what it would take to repair the building for reuse. What steps would be needed to repair the envelope and replicate the interior heritage features, and what would the approximate cost be?
2. Clarification on the interpretation and commemoration of the former Tivoli Theatre proposed for the new development on site. Although the specific details would come at a later design stage, it would be helpful to have a set of key principals for how interpretation and commemoration will be approached to be able to better understand what the community benefit or compensation will be for the loss of the theatre.

The applicant provided an Addendum in response (attached as Appendix “C” to Report PED24232), which has been considered in the preparation of this Report and staff Recommendations.

Vacant Building Registry, Property Standards and Building Inspections

The former Tivoli Theatre property has been on the City’s Vacant Building Registry since 2020. Properties on the Vacant Building Registry are proactively monitored by Municipal Law Enforcement staff quarterly, including inspection of the exterior of the building for any issues. In the fall of 2023, the City received concerns that the vacant building was structurally unsound. The Building Inspections staff investigated and did not find any imminent concerns of failure, but worked with Municipal Law Enforcement staff to ensure the building was in a safe condition and did not present any public safety hazards and was in conformity with the City’s Property Standards By-law. Orders were issued to assist in preventing moisture from entering the building and for general safety, including repointing and repair of the exterior masonry and the removal of a contemporary awning that was in a deteriorated condition. Cultural Heritage Planning staff were consulted on the orders before they were issued.

Following the submission of this Heritage Permit application, Cultural Heritage Planning staff provided Building Inspection and Municipal Law Enforcement staff with a copy of the Building Condition Assessment included in the application package. Building

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Inspection staff reviewed the Building Condition Assessment report and concluded that the engineer of record (Kalos Engineering) has determined the building to be in a generally poor condition, and past the point of restoration. While the building remains vacant, there was no indication in the structural engineer's report that this building posed any immediate danger of collapse or failure or threat to public safety. The building was not deemed to be in an unsafe condition, and no immediate remedial actions were required as a result of the report.

In addition to reviewing the Building Condition Assessment report, Building Inspection staff attended the property on November 13, 2024, for the purposes of an external assessment, and found no apparent change to an inspection conducted in September 2023. The Building Division strongly recommend that the owner of the property take all steps necessary to comply with the Vacant Building, and Property Standards By-law's respectfully. Municipal Law Enforcement staff completed their most recent inspection of the property on November 21, 2024.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Recommendations of this Report are consistent with Provincial and Municipal legislation, policy, and direction, including:

- Encouraging retention and conservation of built heritage resources in their original locations when considering *Planning Act* and Heritage Permit applications (Urban Hamilton Official Plan, Volume 1, Chapter B.3.4.5.2); and,
- Requiring mitigation measures, in addition to a thorough inventory and documentation of lost features, when a significant built heritage resource is unavoidably lost or demolished, including (Urban Hamilton Official Plan, Volume 1, Chapter B. 3.4.5.5):
 - Preserving and displaying fragments of the former buildings' features;
 - Displaying graphic and textual descriptions of the site's history and former use, buildings, and structures;
 - Incorporating salvaged material in the design of the new development; and,
 - Generally reflecting the former architecture and use in the design of the new development, where appropriate.

RELEVANT CONSULTATION

External

- Property owner and their agent and consultants.

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Internal

- Planning and Economic Development Department, Building Division, Building Inspections;
- Planning and Economic Development Department, Licensing and By-law Services Division, Enforcement;
- Corporate Services, Financial Services and Taxation, Tax Billings and Collections; and,
- Ward 2 Councillor Kroetsch.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The subject Heritage Permit application HP2024-033 is for the demolition of the former Tivoli Theatre lobby (circa 1908) and auditorium (circa 1924) structures located at 108 James Street North and 111-113 Hughson Street North, Hamilton. The subject Heritage Permit application HP2024-033 is required to implement redevelopment proposed in Formal Consultation application FC-23-053 (see Historical Background Section of this Report). In support of the Heritage Permit application, the following documents have been submitted:

- Heritage Permit Application Form, dated October 3, 2024;
- Cultural Heritage Impact Assessment, prepared by +VG Architects, dated September 30, 2024, attached as Appendix “B” to Report PED24232 which includes the following appended supporting reports and documents:
 - Building Condition Assessment prepared by Kalos Engineering, dated February 2024 (see Appendix A.5.2);
 - Designated Substances and Hazardous Building Materials Assessment, prepared by Access Environmental Solutions, dated April 9, 2024 (see Appendix A.5.3);
 - Hazardous Building Materials Assessment prepared by Reveal Environmental Inc., dated April 26, 2017 (Appendix A.5.4);
 - Letter dated September 29, 2024, from Steven Dall of Designs by Dall, on state of the paster statues in the building (Appendix A.5.5);
 - Drawings of the current conditions of the building (Appendix A.6.1);
 - Proposed development, preliminary plans (Appendix A.6.2);
- Presentation Slides prepared by +VG Architects, presented on November 12, 2024 to the Heritage Permit Review Subcommittee;

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- Addendum materials, provided after the Heritage Permit Review Subcommittee meeting, attached as Appendix “C” to Report PED24232, including:
 - Cultural Heritage Impact Assessment Addendum prepared by +VG, dated November 27, 2024;
 - Condition Assessment Update prepared by John G. Cooke and Associates Ltd., dated November 27, 2024; and,
 - High-Level Option on Probable Costs of Abatement, Former Tivoli Theatre, prepared by Access Environmental Solutions dated November 23, 2024.

Remaining Cultural Heritage Value or Interest

The subject property retains historical and associative value as the former Tivoli Theatre complex served primarily as a theatre for over 100 years since 1908. The Tivoli, a vaudeville theatre and motion picture house, was the first theatre to introduce sound movies in the late 1920s. Of the numerous theatres built in Hamilton during the early-twentieth century, the Tivoli counted among the seven largest and grandest, the most resplendent of which were the Capitol and the Palace. Only the Tivoli remains of these early downtown theatres. The Tivoli Theatre was greatly admired for its sumptuously decorated "Italian Renaissance" interior, designed by Toronto architect, B. Kingston Hall.

A significant proportion of the original decor was removed or covered during renovations undertaken in 1943, 1947 and 1954 (when the most extensive remodelling occurred). However, the main architectural features of the auditorium remain, including: the proscenium, the ceiling with its elliptical design, the decorative cornice and frieze below, and along each side wall: a colonnade comprising five round arches sprung from coupled pilasters. The two arches on either side of the stage still contain statues of Caesar Augustus and the goddess Minerva. At the base of each of the other eight arches are medallions depicting the four seasons.

Only interior features remain that are protected by designation and the exterior brick facades are not considered to be heritage attributes. The Reasons for Designation forming part of the By-law Nos. 90-255 and 04-256 for the property include “the original architectural features of the auditorium, including the ceilings, proscenium, colonnades, statuary, and other decorative wall elements” and “the original architectural features of the lobby [...] including the ceilings”.

Review of the Cultural Heritage Impact Assessment

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A Cultural Heritage Impact Assessment, prepared by +VG Architects (+VG) dated September 30, 2024, was submitted in support of the application (see Appendix “B” to Report PED24232). The Cultural Heritage Impact Assessment report includes an updated evaluation of the cultural heritage value or interest of the subject property in accordance with Ontario Regulation 9/06, which confirms that the property retains physical and associative value, as summarized above, and included in Section 3.2 starting on page 21 of the document.

Staff have reviewed the Cultural Heritage Impact Assessment report and supporting documentation and assessed the potential impact on the designated heritage resource, including consideration of:

- Displacement effects: those adverse actions that result in the damage, loss, or removal of valued heritage features; and,
- Disruption effects: those actions that result in detrimental changes to the setting or character of the heritage feature.

The removal of the lobby and auditorium will result in significant displacement and disruption effects, as all remaining tangible heritage attributes are proposed to be demolished. However, the documentation provided with the Heritage Permit application confirms that the existing building and interior heritage features cannot be feasibly retained and restored in place. The remaining Tivoli Theatre structures are in an advanced state of deterioration that would require reconstruction of the building envelope to make it safe to occupy, and the designated interior elements of the former theatre and lobby would be required to be removed to facilitate the repairs and due to the presence of hazardous materials and require further analysis to determine if they can be remediated after removal.

The following is a summary of the findings of the documentation provided in support of this application:

- Cultural Heritage Impact Assessment, prepared by +VG, dated September 30, 2024 (attached as Appendix “B” to Report PED24232) concludes that:
 - The property retains cultural heritage value or interest, but it is not feasible to restore the existing features and the building that contains in place.
 - To mitigate the impacts of demolition, interpretation and commemoration measures are recommended as part of redevelopment of the site.
- Building Condition Assessment, prepared by Kalos Engineering Inc., dated February 2024 (see Appendix A.5.2 of the Cultural Heritage Impact Assessment attached as Appendix “B” to Report PED24232) states the following:

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- The building has poured concrete foundations with brick walls and a mixture of wood and steel framing. The roof structure consists of gypsum based (Siporex) roof deck panels. Some walls are clay tile (speed tile).
- The roof is in poor condition. The roof deck panels consist of a material that loses structural integrity when it becomes wet. Heavy moisture, likely from a failing roofing system, is evident throughout. Shoring has been installed to temporarily prevent collapse of the interior ceiling, however the entire roof structure would need to be replaced.
- The brick and clay tile walls are significantly deteriorated on the exterior and interior of the building. Rebuilding would be required to restore the structural integrity of the walls. The plaster would need to be removed to better assess the state of the damage of the walls and to undertake any repairs.
- There is moisture evident on the interior walls, as observed by peeling paint and plaster.
- The flooring requires further examination, however additional reinforcing would be required to remove damaged components and to reinforce the floors to meet present-day loading requirements for occupancy.
- The building is generally in poor condition and “should be considered past the point of restoration”.
- Designated Substances and Hazardous Building Materials Assessment, prepared by Access Environmental Solutions dated April 9, 2024, (see Appendix A.5.3 of the Cultural Heritage Impact Assessment attached as Appendix “B” to Report PED24232) states the following:
 - Asbestos was found throughout the building, including in the designated plaster walls, ceilings, and ornamental mouldings.
 - The condition of the asbestos-containing plaster throughout the building is extremely poor, evidenced by widespread damage to the plaster walls and ceilings.
 - Debris from this asbestos plaster was found throughout the premises.
 - All building surfaces should be treated as being contaminated with asbestos fibres.
 - Additional designated substances and hazardous building materials suspected to be present in the building include mercury, silica, polychlorinated biphenyls (PCBs), ozone-depleting substances, mould, and biological contaminants (animal waste).
 - Building materials confirmed and/or presumed to contain asbestos, including the interior plasterwork, must be removed prior to disturbance, in accordance with provincial regulation Ontario Regulation 278/05.

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- Hazardous Building Materials Assessment, prepared by Reveal Environmental Inc., dated April 26, 2017 (see Appendix A.5.4 of the Cultural Heritage Impact Assessment attached as Appendix “B” to Report PED24232) states the following:
 - Asbestos was confirmed, or presumed present, in the plaster walls and ceiling finishes, as well as other areas of the interior of the building.
 - Testing of the plaster finish confirmed the presence of chrysotile asbestos in the finish coat.
 - It was recommended that all asbestos-containing materials be removed that may be disturbed by renovation work.
 - Other hazardous materials were confirmed or presumed present in the building, including lead, silica, and mould.
- Addendum from +VG, dated November 27, 2024 (attached as Appendix “C” to Report PED24232), which summarizes the findings of their original Cultural Heritage Impact Assessment (attached as Appendix “C” to Report PED24232) and clarifies the rationale for the proposed demolition and the recommended measures for commemoration and interpretation as part of redevelopment of the site.
- Addendum – Updated to Condition Assessment, prepared by John G. Cooke and Associates Ltd., dated November 27, 2024, (attached as Appendix “C” to Report PED24232) states the following:
 - At a high-level, the scope of work that would be required to repair and conserve the shell of the existing building (not including the designated interior heritage features), would cost approximately \$4.7 million, including:
 - Investigations of column conditions;
 - Repair of steel columns;
 - Replacement of all gypsum roof deck panels;
 - Reinforcement of roof trusses if required;
 - Complete localized rebuilding and repairs of masonry walls from exterior;
 - Investigate and locally replace failed terra cotta tile along the interior; and,
 - Investigate and reinforce wall ties as required.
 - It is "almost impossible to come up with a budget without far more investigation and determination of the true scope of work required to rehabilitate the building shell". Therefore, it is recommended that any budgeting for the work include a large contingency of at least 25%, for a total estimate of \$5.875 million.
 - "There is a high likelihood that dangerous conditions will develop in the near term and, more concerningly, that others may currently exist that we cannot see."

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- "The liability of leaving this building to deteriorate further is unacceptable. Unless there is a realistic prospect of immediately undertaking a project in line with what is described above, then I must regrettably recommend that this building be demolished without further delay."

Mitigation Measures

To mitigate the impact of demolition of the former Tivoli Theatre, the Cultural Heritage Impact Assessment and the Addendum propose measures to interpret and commemorate the intangible historical and associative value of the former Tivoli Theatre as part of the proposed redevelopment of the site, and potential salvage and/or recreation of tangible physical heritage attributes. As noted in the consultant report, the Standards and Guidelines for the Conservation of Historic Places in Canada (Parks Canada, 2011) recommends documentation and commemoration of heritage features when demolished or removed. The City's Official Plan policies also speak to mitigation measures when significant built heritage resources are unavoidably lost or demolished (see Policy Implications and Legislated Requirements Section of this Report).

Section 6.2 of the Cultural Heritage Impact Assessment (starting on page 29 of Appendix "B" to Report PED24232), provides preliminary recommendations for documentation and salvage for each of the interior heritage attributes of the former Tivoli Theatre, including an overview of their condition and initial recommendations for curation and reuse. For all of the features, detailed scanning, drawings, and descriptions are proposed for comprehensive documentation. The consultant report notes that, for many of the features, further testing is required to confirm if they can be safely abated for asbestos and salvaged for display in the new development, or if they would need to be recreated.

The final details of the proposed mitigation measures are subject to a final design for redevelopment, however, the Cultural Heritage Impact Assessment and Addendum (attached as Appendices "B" and "C" of Report PED23232), outline the key principles for this work, including:

- Providing an event space in the new development, ideally located in a skybridge or in an upper storey, paying homage to the heritage fabric of the original Tivoli Theatre, including replicated plaster proscenium panels and medallions from the former auditorium;
- Commemorating the former Tivoli Theatre in the new development including:

SUBJECT: Heritage Permit Application HP2024-033, Under Section 34 of the Ontario Heritage Act, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) - Page 18 of 20

- A public interpretive centre and theatre lobby fronting onto James Street North for commemoration;
- Displaying of salvaged or recreated plaster work, including interpretive materials, to celebrate the Italian Renaissance architecture and history of the Tivoli Theatre, including print, electronic publications, interactive installations, and a virtual reality tour incorporating 3D building scans of the building;
- Interpreting the Second Empire architecture of the former carriage factory portion of the Tivoli Theatre complex that used to front onto James Street North (demolished circa 2004) in the podium of the new development, in terms of its massing, materials and detailing, including a new marquee; and,
- Documenting the existing building and spaces for the City's archival record prior to demolition.

The Cultural Heritage Impact Assessment recommends further investigation and studies required to finalize a strategy for conservation and mitigation of the impacts of demolition, including:

- Review of the feasibility of remediating salvaged interior heritage attributes for display and integration (Conservation Plan);
- Creation of an interpretive/commemorative plan, including historic documentation, materials, signage, and architecture (Interpretation/Commemoration Plan);
- Development of design guidelines for the site (Design Guidelines); and,
- Detailed documentation of the existing building and spaces for the City's archival records prior to demolition and final recommendations for salvage and reuse (Documentation and Salvage Plan).

Conclusion

Given that the remaining Tivoli Theatre structures are in an advanced state of deterioration, that reconstruction of the building envelope is required to make it safe to occupy, and that the designated interior elements of the former theatre and lobby would be required to be removed to facilitate any repair work and due to hazardous materials and require further analysis to determine if they can be remediated after removal, staff are supportive of the opportunity to intensify the consolidated site, re-introduce an event space and provide the public with a commemoration of the Tivoli, which has been inaccessible to the public for several decades.

Therefore, staff recommend approval of Heritage Permit application HP2024-033 to demolish the remaining lobby and auditorium structures of the former Tivoli Theatre,

SUBJECT: Heritage Permit Application HP2024-033, Under Section 34 of the Ontario Heritage Act, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) - Page 19 of 20

subject to conditions to ensure that the proposed commemoration and interpretation measures are implemented, including the:

- Preparation of an initial scoped Conservation Plan and Documentation and Salvaged Plan assessing the feasibility of salvaging representative plaster features from the building prior to their removal (Condition (v));
- Preparation of a comprehensive Conservation Strategy to guide future redevelopment on site prior to demolition, including a Conservation Plan, Interpretation/Commemoration Plan, Documentation and Salvage Report, Design Guidelines for the new development, and an Interim Conditions Plan outlining how the site conditions will be treated and managed following demolition and until redevelopment occurs (Condition (i));
- Provision of financial securities to implement the Conservation Strategy prior to demolition (Condition (ii)); and,
- Submission of a complete application for the required Zoning By-law Amendment under the *Planning Act* for redevelopment, prior to demolition (Condition (iii)).

This Report also recommends that staff repeal Designation By-law Nos. 90-255 and 04-256 for the subject property following implementation of Heritage Permit application HP2024-033, specifically the Conservation Strategy actions for interpretation and commemoration in the new development (Recommendation (c) of this Report).

ALTERNATIVES FOR CONSIDERATION

Recommend Refusal of the Heritage Permit Application

Hamilton Municipal Heritage Committee may recommend that Council refuse the Heritage Permit application. Staff do not recommend this alternative because the recommended conditions of Heritage Permit approval address the concerns identified by Heritage Permit Review Subcommittee following review of the application at their meeting on November 12, 2024. Should this alternative be considered, staff propose the following language for an amended recommendation:

“That Heritage Permit Application HP2024-033 to demolish the former Tivoli Theatre lobby and auditorium structures at 108 James Street North and 111-113 Hughson Street North, Hamilton, under Section 34 of the *Ontario Heritage Act*, be **refused**.”

Recommend Approval of the Heritage Permit with Additional or Amended Conditions

SUBJECT: Heritage Permit Application HP2024-033, Under Section 34 of the Ontario Heritage Act, for the Demolition of the Tivoli Lobby and Auditorium at 108 James Street North and 111 -113 Hughson Street North, Hamilton (PED24232) (Ward 2) - Page 20 of 20

Hamilton Municipal Heritage Committee may recommend that Council approve the Heritage Permit Application, subject to additional or amended conditions of approval. Staff do not recommend this alternative because the recommended conditions of approval provide appropriate direction for the commemoration and interpretation of the heritage value of the site through the forthcoming Conservation Strategy and required financial securities for the implementation of its recommendations.

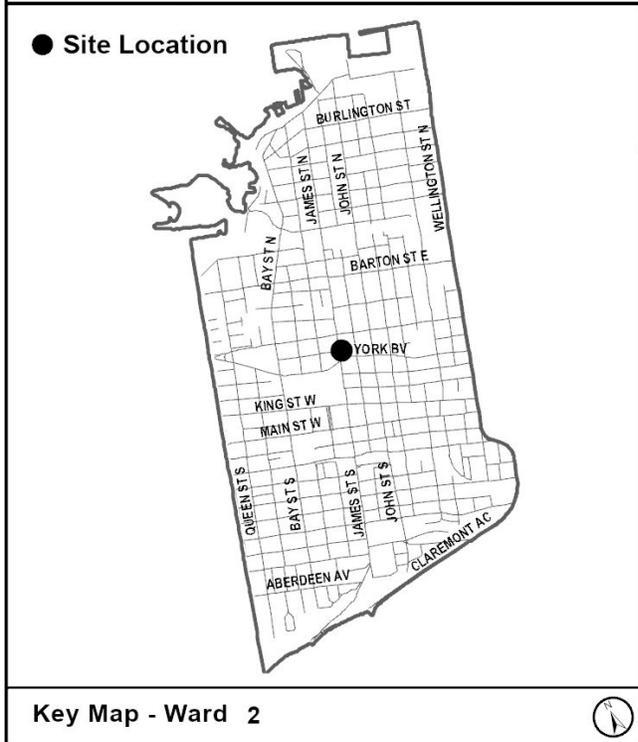
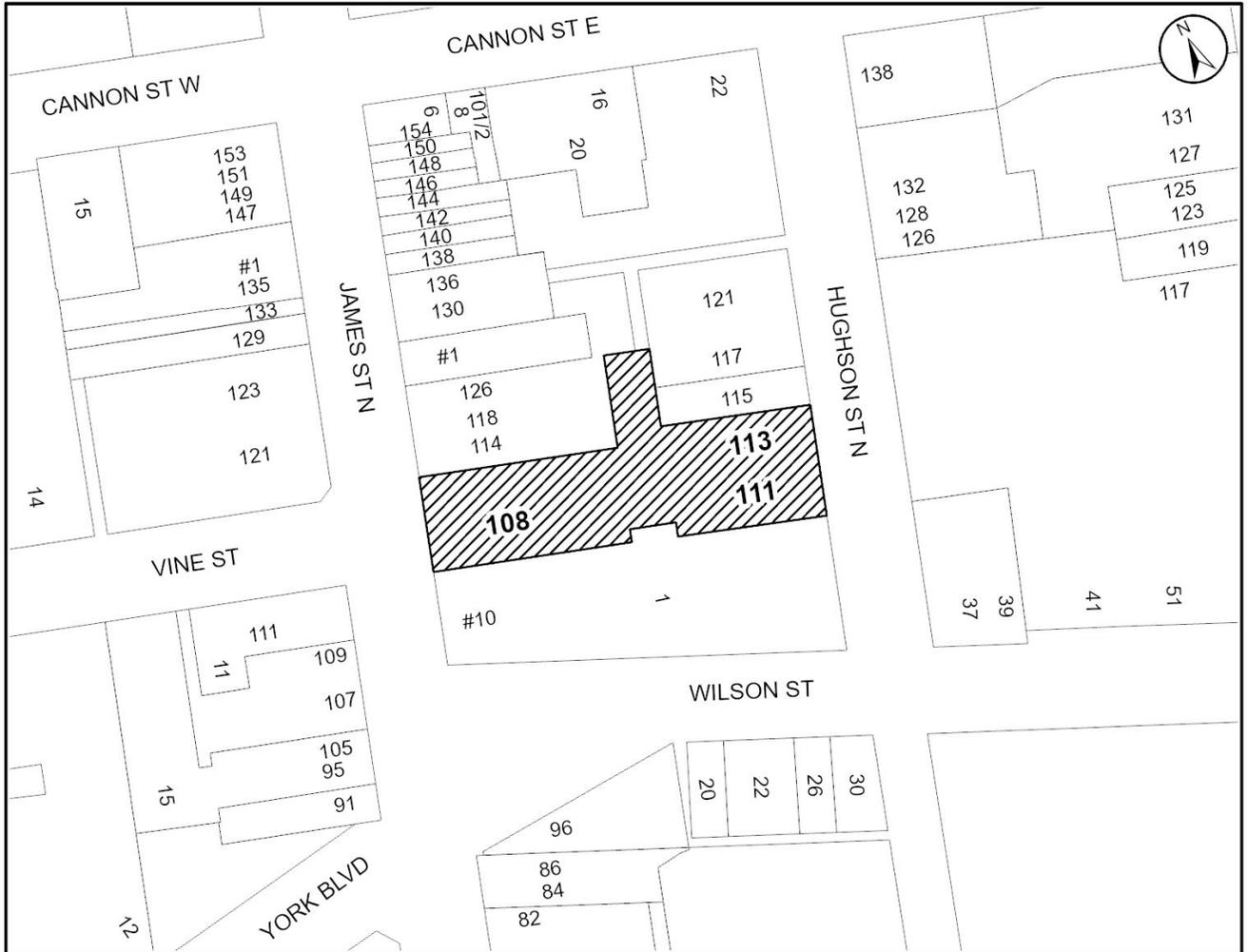
Recommend Approval of the Heritage Permit with No Conditions

Hamilton Municipal Heritage Committee may recommend that Council approval of the Heritage Permit Application with no conditions of approval. Staff do not recommend this alternative because the recommended conditions are necessary to ensure appropriate commemoration and interpretation of the heritage value of the site through the required Conservation Strategy and financial securities for the implementation of its recommendations.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24232 – Location Map
Appendix "B" to Report PED24232 – Cultural Heritage Impact Assessment
Appendix "C" to Report PED24232 – Addendum Materials

EB:AG:mb



Location Map


Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

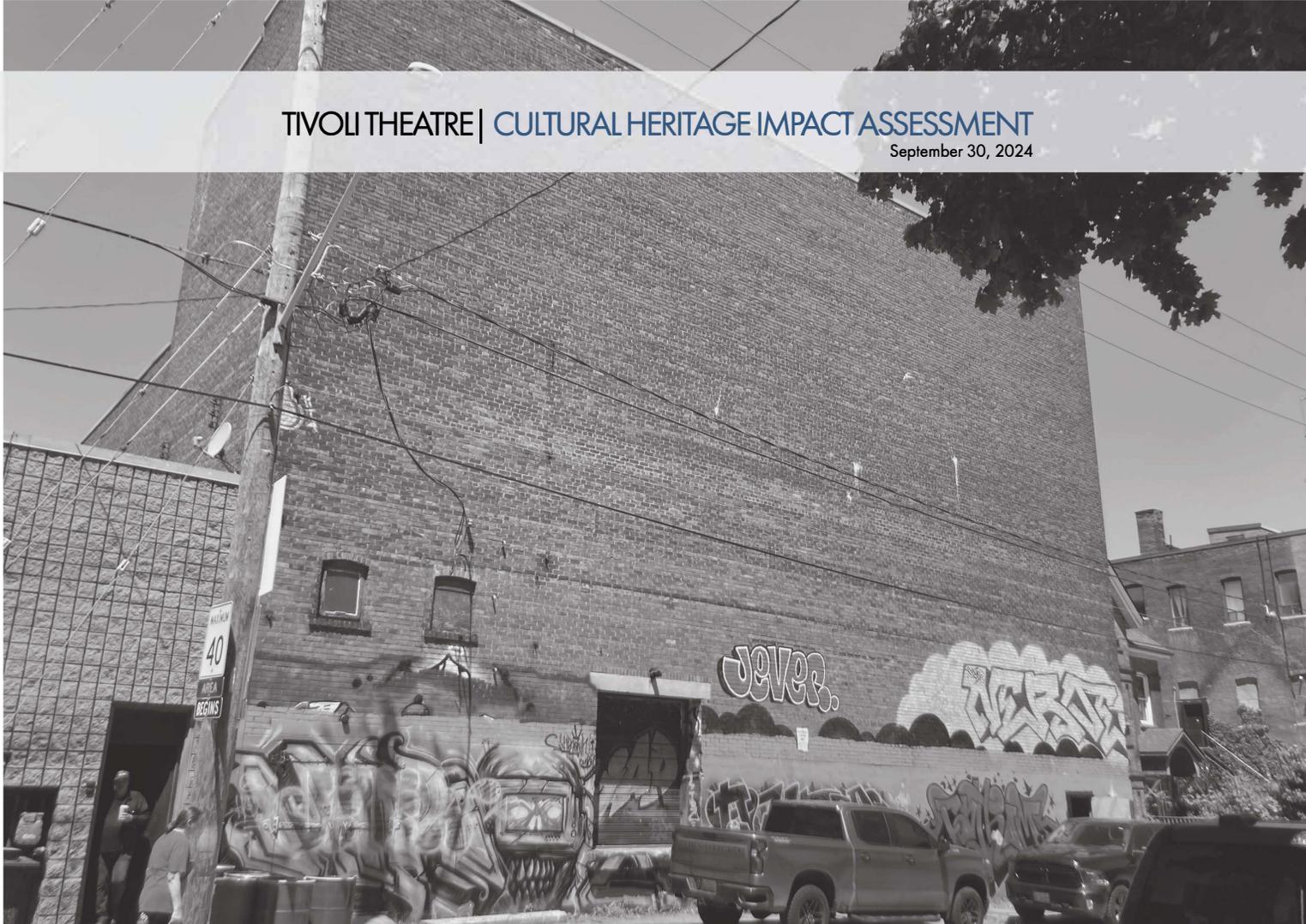
File Name/Number: HP2024-033	Date: November 1, 2024
Appendix "A"	Scale: N.T.S
Planner/Technician: EB/SH	

Subject Property

 108 James Street North &
111 - 113 Hughson Street North, Hamilton

TIVOLI THEATRE | CULTURAL HERITAGE IMPACT ASSESSMENT

September 30, 2024



Tivoli Theatre [Source: +VG Architects]



CULTURAL HERITAGE IMPACT ASSESSMENT | TIVOLI THEATRE



Tivoli Theatre [Source: Hamilton Public Library]

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CULTURAL HERITAGE IMPACT ASSESSMENT | TIVOLI THEATRE



Tivoli Theatre [Source: Hamilton Public Library]

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EXECUTIVE SUMMARY

The subject of this report is the proposed redevelopment of the property at 108 James Street North, which includes the property at 111 and 115 Hughson Street North. Aventus Developments retained +VG Architects to develop a Cultural Heritage Impact Assessment to evaluate the potential impacts of the proposed development on the Tivoli Theatre. The project was the subject of pre-consultation meetings with City officials in December 2023, including Heritage Planners Alyssa Golden and Emily Bent. This series of meetings offered valuable insights into the heritage permit application process. A preliminary meeting was completed in February 2024 to provide the City with an overview of the project. A tour was conducted on March 4th 2024 with senior city staff to review questions on the conditions.

The objective of this report is to provide conservation best practices, mitigation strategies and recommendations for a heritage permit application for demolition. The methodology is based on the physical condition of the Tivoli Theatre, existing documentation, research, and analysis.

Heritage Status

The Tivoli Theatre Auditorium is a designated building since 2004. It satisfies the Ontario Regulation 9/06 criteria for designation under Part IV of the Ontario Heritage Act (OHA) as determined by a previous heritage assessment. The property is recognized as "protected heritage property" under the Provincial Policy Statement and is designated under Part IV of the OHA by municipal By-laws 90-255 and 04-256. Consequently, the proposed development must comply with the planning and urban design framework established by the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, the City of Hamilton Official Plan, and pertinent urban design and heritage guidelines.

The Heritage Team at +VG Architects has conducted investigations and reviewed previous research to inform the evaluation of these consolidated properties.

The Tivoli Theatre is a significant asset to Hamilton's theatre history, as it has architectural, associative, and contextual value as well as contributions to the area's cultural identity and streetscape. In Hamilton's cultural and social life, it has become a central element due to its architecture and adaptive reuse evolution. The theater auditorium interior continues to be an architectural monument with distinctive artistic elements, despite the fact that it has been subjected to years of decay and numerous alterations.

Development Concept

Aventus Developments proposes that the site be redeveloped with a high-rise structure, which requires the demolition of the auditorium building as there are hazardous materials throughout, and substantial deterioration to its structural integrity as identified in reports provided in the appendix.

Strategies for Conservation and Mitigation

The new development should be designed in a way that allows for the contemporary interpretation of the intangible heritage values associated with the building, while maintaining the commercial use associated with the community. Consequently, a new commemorative element can be constructed that would incorporate a shared public space approximately 800 sf, as it is a critical component of the commercial streetscape along James Street North.

The design of the streetscape and its relationship to the on-site heritage resources should adhere to the following mitigation measures:

The new design should incorporate the new common public space through contemporary architectural reinterpretation, avoiding the duplication of the exact form, materiality, style, and detailing of the original building. The design should meet the intent of federal, provincial, and municipal urban planning and heritage policies. Sun studies of the proposed development should be conducted to provide additional guidance on the impact of natural illumination on adjacent properties. Additionally, implementing a transition between the proposed development and the adjacent properties should be considered.

Conclusion

As the James Street North district evolves, new development should typically integrate existing structures into the new, to conserve the original and inform the new design. The condition of the building has continually deteriorated over the years, making this integration untenable. The structural and building envelope breaches as well as the extent of hazardous substances on the historic plasterwork have limited the potential for rehabilitation or restoration of the theatre heritage attributes.

Salvage and conservation of these interior heritage features of Italian Renaissance style is part of the redevelopment plan and CHIA recommendations. More information and study is required to determine the feasibility of removal of hazardous substances on the fragile plaster ornamentation, removal and relocation of the features.

As part of the conservation process for demolition, it is recommended that further investigation be undertaken for:

- Feasibility of remediation of interior heritage attributes.
- Development of design guidelines for the site that respond to Tivoli Theatre qualities such as principles of Second Empire architecture, a marquee entrance, feature lighting, theatrical inspired spaces and details.
- Creation of an interpretive/commemorative plan including historic documentation, materials, signage and architecture.
- Detailed documentation of the existing building and spaces for the City's archival records prior to demolition.



Tivoli Theatre [Source: Hamilton Public Library]

1. INTRODUCTION

1.1. INTRODUCTION

1.1.1 OVERVIEW

+VG Architects has been retained by Aventus Developments to evaluate the impact of the proposed development on the cultural heritage of the Tivoli Theatre through the preparation of a Cultural Heritage Impact Assessment (CHIA).

Ultimately, this study aims to facilitate a strategy to conserve the cultural and associative values and recommend a comprehensive strategy for the adaptation of the Tivoli Theatre's resources during the design phase. Coordination, design recommendations, and historical analysis are necessary to address the potential impact of the proposed construction activities on the existing property. These considerations should be carried out in accordance with the planning requirements of the City of Hamilton and the Ontario Heritage Act.

This recommendation will identify the impact of the proposed development on the Tivoli Theatre's status as a cultural heritage resource and will be founded on an understanding of the theater's significance and heritage attributes. The development design will be guided in all areas by a balanced approach to adaptation.

This iterative process aims to provide guidance for decision-making and effectively manage the redevelopment of the Tivoli Theatre.

1.1.2 Methodology

The research approach requires gathering relevant materials from the city archives, including maps, images, publications, and primary sources. Additionally, it involves conducting on-site analysis and review of recent structural and hazardous materials assessments, and previous reports. This approach aims to address several key issues:

- to determine the historical and cultural significance of the structure.
- to assesses the current condition of the building.

The CHIA will utilize both modern and historical records to develop a strategy that balances urban intensification, and adaptation. This strategy aims to achieve sustainability, meeting the shared goals of the public, city officials, developers, and designers.

1.1.3 Current Owner and Contact Information

Owenn: Aventus Development Corp.
 1418 Ontario Street
 Burlington, ON

Contact: Edward John, Partner/ Principal Planner
 Landwise
 T: 905.574.1993, Ext 2002



Tivoli Theatre - View from James St [Source: Hamilton Public Library]

1.2. DESCRIPTION OF THE PROPERTY

1.2.1 SITE

The subject site, municipally known as 108 James Street North, is a through lot that stretches from James Street North to Hughson Street North (see Site Map).

The development site encompasses 111 and 115 Hughson Street North. The properties collectively have an area of 2,791 square meters (0.2791 hectares) and have a width of 22.31 meters on James Street North and 26.05 meters on Hughson Street North. A common easement gives access from Hughson Street North to the rear. This easement also grants access to two neighboring houses to the north, which face James Street.

The front part of the site facing James Street North is currently empty and was once used by the Tivoli Theatre for its entrance area and as a place where carriages were made.



Tivoli Theatre site - View from James St N looking at the remaining entrance. [Source: +VG Architects]



Tivoli Theatre Auditorium building from Hughson St N. [Source: +VG Architects]

1. INTRODUCTION

The CBC Hamilton and Art Gallery of Hamilton Art Annex, situated directly north of and adjacent to the site, serves as the entrance to the James Street North Arts District. Currently, it stands as one of the limited modern urban design features in the area.

The Site is located between two main streets in Downtown Hamilton: James Street North to the west, which is a two-lane, two-way street with parking on both sides, and Hughson Street North to the east, which is a two-lane, northbound one-way street with parking in the eastern lane. The surrounding land uses consist of a three-story commercial building to the north, facing James Street, and a parking lot facing Hughson Street. To the south, there is a one-story commercial strip plaza. Towards the west, there is a three-story mixed-use building currently being constructed at the northwest corner of Vine and James Street. Finally, to the east, there is St. John's Lutheran Church located at the northeast corner of Wilson and Hughson Streets.

The region benefits from excellent public transportation services. Hamilton Street Railway presently runs several bus routes along James Street and Hughson Street, which include routes 02, 03, 04, and 99 on James Street North, as well as lines 1 and 1x on York Boulevard and John Street. The location is located one block to the east and four blocks to the north of the MacNab Transit Terminal, which offers access to all areas of the City of Hamilton. In addition, the Hamilton Rapid transportation Preliminary Design and Feasibility Study outlines a light rail transportation route known as the "A-Line" that runs along James Street North.



Keyplan Hamilton, ON [Source: City of Hamilton]

1.2.2. ADJACENT AREA

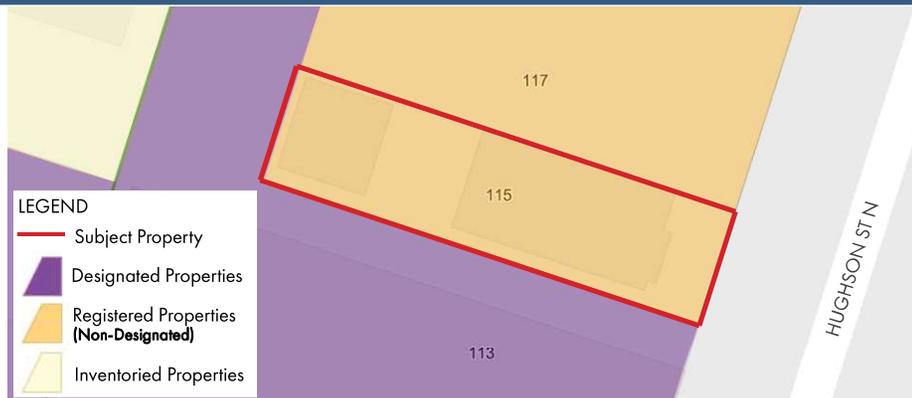
The subject site is situated in the central area of downtown Hamilton, specifically along James Street North. This location has gained significant appeal among artists from several disciplines across southern Ontario. The James Street North block art area spans from Wilson Street to the south, to Murray Street to the north. It consists of low-rise brick buildings from the early 20th century, which house street level stores, restaurants, and cafes. Above these establishments are studios and flats.

James Street North can be described as a self-contained urban community, featuring a variety of buildings, activities, and individuals, as well as a blend of local pubs, clubs, cafés, bistros, and businesses. James Street North possesses an eclectic and pedestrian-friendly vibe. The street is characterized by a diverse range of architectural styles and materials, representing different time periods. Street-level facades typically feature large windows that are ideal for retail spaces, while the second and third floors have smaller windows that accommodate a mix of uses. Building height may vary, but typically they feature a cornice element to delineate the building's edge. The uniqueness of James St N is recognized and listed on the City of Hamilton's Cultural Heritage Landscape inventory.



Map of Tivoli Theatre and adjacent properties [Source: City of Hamilton]

ADJACENT PROPERTIES - 115 HUGHSON ST N



Source: City of Hamilton

Registered (Non-Designated) Property
Property: 115 Hughson St N, Hamilton
Heritage Date: 1900
 Extant: Yes

Add Date: September 2014
Report: PED14191/HMHC Report 14-009(a)
Architect/Builder: unknown
Original Owner: unknown

Design Value: 115 Hughson Street North is a single-detached brick house constructed between 1899 and 1910. The two-and-a-half storey building has a medium hip roof with projecting eaves, a projecting front gable, shed-roof dormers to the north and south and a partially-exposed stone foundation. There are two single-stack brick chimneys, one on the east end of the south side and the other in the rear. The brick building is comprised of segmental windows with brick voussoirs and stone lug sills. The front façade has a projecting three-storey bay with transoms in the first and second-storey segmental windows, as well as decorative brick work. The main entrance is accessed through a closed porch with a pedimented front-gable roof.

There is a one-storey rear brick wing with a hip roof and a one-storey stone garage located at the southwestern edge of the lot (c. 1950s).

Associative Value: No identified historical or associative value or interest.

Contextual Value: 115 Hughson Street North is the only remaining 19th-century house on the west side of Hughson Street North between Wilson and Cannon streets, which formerly consisted of 115, 117 and 119 Hughson Street North.

Landscape Features: rear one-storey concrete shed (c. 1911-1964)



Source: +VG Architects

ADJACENT PROPERTIES - 121 HUGHSON ST N



Source: City of Hamilton

Registered (Non-Designated) Property
Property: 121 Hughson St N, Hamilton
Heritage Date: 1900
Extant: Yes

Register Add Date: September 2014
Register Expiry Date: December 2024

Register 5 Year Date: December 2029

Designation Candidate: No

Architect/Builder:
Original Owner:

Preliminary Design Value: 121 Hughson Street North is a single-detached brick building constructed in the early 20th century. The building has a rectangular plan with a short façade, a shallow setback from the public right of way and a single-stack square brick chimney located side left. The three-storey building has a partially-exposed basement and a stone foundation containing flat windows with stone lintels and plain lug sills. The front façade consists of three bays with varying architectural details for each storey. The main entrance, accented by a large rectangular transom, is located in the central bay of the first storey. Flanking the main entrance are flat windows with stone lintels and plain lug sills. Brick pilasters and stone columns with Doric capitals divide and frame the three bays and support the first-storey moulded cornice with a dentilated frieze. Flat windows with stone lintels flank the two semi-circular windows with stone voussoirs and keystones contained in the central bay of the second storey. The second-storey windows are connected via a continuous stone sill. The third storey has similar fenestration to the second storey, only with plain lug stone sills and original wood mullions and transoms. Decorative brick work and courses demarcate the second and third storeys. Brick pilasters, spanning the second and third storey on either side of the front façade, with Doric capitals support the third-storey moulded cornice and frieze, which is also supported by decorative brackets. The roofline is further accented by a shaped brick parapet. The side and rear walls are comprised of segmental windows with brick voussoirs and plain lug stone sills.

Preliminary Associative Value: 121 Hughson Street North was occupied by the Sons of England Benevolent Society (SOE) who used it as their hall c. 1910. A historical business directory places SOE in the building in 1922. The Sons of England Benevolent Society, also known as the Sons of England Benefit Society was a Canadian benevolent society that provided insurance to members in need. It was founded in Toronto in 1876 and disbanded in 1971. Although the primary function of the society was as a form of insurance, the constitution also states that the society foster the British connection and love of Empire in Canada. After the turn of the century, the SOE formed reception committees for new arrivals and sponsored social evenings with music-hall entertainment, patriotic songs, and English ale. An independent women’s organization, the Daughters of England (DOE), was established in Hamilton in 1890 and expanded across the country once it began offering sick benefits in 1895. The building was also used by the Hamilton Lions’ Club in 1922 and was later used as National Building offices in the 1940s and as a general hall in the 1960s. A fire swept through the building in 1960 when it was occupied by Hindoo Koosh Grotto.

Preliminary Contextual Value: 121 Hughson Street North has a similar setback and roofline as the adjacent building located at 127 Hughson Street North.

Classification:

Inventory Type: DBHI
Survey Date: 2014



Source: +VG Architects

ADJACENT PROPERTIES - 127 HUGHSON ST N



LEGEND

- Subject Property
- Designated Properties
- Registered Properties (Non-Designated)
- Inventoried Properties

Source: City of Hamilton

DESIGNATED PROPERTY

127 Hughson St N, Hamilton

Firth Brothers Ltd. Complex

Address: 127 HUGHSON ST N, Hamilton

Heritage Date: 1929

Architect / Builder (if known): Willard Bruce Riddell

Extant: Yes

By-Law (PDF): 20-217: See Appendix
 Heritage District (PDF):

Part IV Designation: Yes

Part V Designation: No

Heritage Easement:

National Historic Site: No

Canadian Register of Historic Places: No

Former Address:

Preliminary Design Value: 127 Hughson Street North is a four-storey building with a full basement that was constructed with brick and reinforced concrete in 1929 for Firth Bros. Ltd. The building, formerly referred to as 129 Hughson Street North, was built to tie in with a two-storey brick tailor shop that was located to the rear of the lot and connected to 144 James Street North via a one-storey brick extension. The original two-storey brick tailor shop was replaced by a four-storey building at the time of 127 Hughson Street North's construction.

The building features a rectangular plan, a short façade, a shallow setback and a single-stack square brick chimney located in the northwest corner.

The front façade is comprised of four bays of rectangular window openings that have stone lintels and plain slip stone sills. The storeys are demarcated by decorative brick work and stone accents and each bay is framed by ornamental brick columns with stone quoins where the columns meet the foundation. Stone "F"s are located in the triangular brick parapets above the south and north bays. The window openings in the outer bays are comprised of forty-eight panes with three sets of four panes that pivot open. The window openings in the inner bays are comprised of fifty-two panes with two sets of four and one set of six panes that pivot open. Similar multi-paned, pivoting windows can be found on the south side wall window openings. The windows have metal frames and muntins.

The main entrance is located in the first storey of the northerly bay of the front façade. The entrance opening is framed by a moulded stone surround and stone columns with polygonal shafts and Doric capitals that support an intermediate stone cornice. Above the intermediate cornice is a stone block with discolouration outlining the former "FIRTH BROS. LIMITED" letters that were once attached. Directly above the stone block is a moulded stone cornice with large stone dentils. The projecting entrance is further framed by decorative brick and stone. The entrance doors consists of two leafs with rectangular glass panels trimmed with decorative wood mouldings, as well as a rectangular transom and tall sidelights. The four-storey brick tailor shop located to the rear of the lot has four bays of windows on the north wall (the west bay is blind) and four bays on the west wall. The building juts out one bay deep from the southeast corner. The rectangular window openings have corbelled brick trim above them and plain slip brick sills. Each of the window openings on the west and south walls has either thirty-two glass panes with two sets of four panes that pivot open or twenty-eight glass panes with one set of six panes that pivot open. There are also two bays with 6/6 glass panes on the south walls.



Source: +VG Architects

ADJACENT PROPERTIES - ST. JOHN'S EVANGELICAL CHURCH - 37 WILSON STREET, 104 HUGHSON STREET NORTH [Including 39 Wilson Street]



Source: City of Hamilton

Places of Worship Inventory
 St. John's Evangelical Lutheran Church
 Address: 37 Wilson Street, 104 Hughson Street North,
 Hamilton. [Including 39 Wilson Street]
 Construction Date: 1865
 Other Names: Primitive Methodist Church, The Old
 German Church, St. Paul's Lutheran Church, St. Paul's
 Evangelical Lutheran Church
 Current Affiliations: Lutheran

Historical Affiliations: Methodist
 Architect: Unknown
 Building: Albert H. Hills 1865, Mr. Houlden 1884
 Architectural Style(s): Gothic Revival
 Construction Material: Red brick
 Notable Building Features:
 Circular brick tower topped by wooden spire, circular
 window in front façade, datestone 1864.

Preliminary Design Value:
 St. John's Evangelical Lutheran Church, originally a Methodist church, was constructed circa 1865 on the northeast corner of Hughson and Wilson streets. The Gothic revival inspired one-storey brick church has a rectangular plan with a short façade fronting onto Wilson Street (formerly known as Gore Street). The medium front-gable vaulted roof meets a triangular brick parapet flush with the front façade, accented by stone pediments and corbelled brick at the eaves. The eaves projecting over the side walls are decorated with brick dentils.
 In 1884, when the Lutheran congregation moved into the Hughson Street church, an octagonal tower and steeple were

added to the front left of the building and the date stone from their former church located near Market Street at Bay was transferred to the front façade, inscribed:

EV. LUTHERISCHE
 ST. PAUL KIRCHE
 A.D. 1864

In the centre of the front façade there is a keyhole window with a quatrefoil design above the date stone and a large rose window below, both with stone drip moulds and sills. The front-gabled main entrance, which projects from the centre of front façade, is framed by an arched opening with a blind transom and stone drip mould. The six bays of the side walls each contain paired lancet windows with stone drip moulds and moulded stone lug sills and segmental basement windows with brick voussoirs. The bays are demarcated by brick buttresses with stone accents.
 A modern three-storey brick-clad addition was built in 1969 to the north of the original building and projecting east from the rear wall. The addition has a flat roof and three bays fronting onto Hughson Street North with an entrance in the central bay, listed as 104 Hughson Street North, which is now used as the primary entrance for the church.
 39 Wilson Street is a two-and-a-half storey brick house constructed between 1899 and 1910 directly east of the church. The house has a medium hip roof with projecting eaves, a central front dormer and two single-stack brick chimneys on the west side wall. The front façade is comprised of segmental windows with brick voussoirs and plain lug stone sills and an off-centre main entrance with a transom and brick voussoirs.

Historical/Associative:
 The brick church located at 37 Wilson Street was built in 1868, replacing an earlier wood-frame building on John Street North built as early as 1845 by a small group of Primitive Methodist adherents. In 1880, following the amalgamation of various sects within the Methodist Church, the membership decided to vacate their building in order to join the larger Gore Street Methodist Church on John Street North. In 1884, St. Paul's German Evangelical Lutheran congregation, looking for a larger place of worship for their growing membership, purchased the vacant church for \$8,000.
 The Lutheran congregation in Hamilton trace their origins to 1857, when the curate of Christ's Church, Rev. Theo Heisse conducted services and performed the rites of the church in the German language for a small group of immigrants. A year later, the group was offered the use of the schoolroom of the Congregational Church and Rev. C. Rechenberg from First Lutheran in Toronto came to conduct occasional services. Wishing to have their own place of worship, the growing congregation purchased a small brick building to serve as a "kirche" on Market and Bay Streets from lawyer John Holden in 1864, naming it St Paul's Lutheran. Steady growth of church membership during the 1870s resulted in the building becoming overcapacity and the site unsuitable for redevelopment, so the need for a new location became necessary. On obtaining ownership of the Hughson Street Church, the Lutheran congregation transferred the name of their former church and the 1864 date stone to the new location. They undertook alterations to the building, the most notable being the addition of a steeple on the southwest corner tower.

Between the beginnings of the congregation in 1857 and 1920, the German language was used for all services and rites of the church. Gradually, English was introduced and services in both languages were held, but the outbreak of war in 1939 resulted in the exclusive use of English at all main services. This church has always been recognized as a place that welcomed European immigrants to its congregation – between 1889 and 1900, 1920 and 1931 and again following the end of World War II, large numbers of refugees and immigrants from Germany and the Baltic States of Latvia, Lithuania and Estonia arrived in Hamilton and came to St. Paul's to worship – increasing the congregation to several thousands by 1953.

ADJACENT PROPERTIES - **ST. JOHN'S EVANGELICAL CHURCH** - 37 WILSON STREET, 104 HUGHSON STREET NORTH [Including 39 Wilson Street]

As a way of solving the serious accommodation problem, the Synod of the Evangelical Lutheran Church of Canada introduced changes in 1955 by dissolving Hamilton's two Lutheran churches, St. Paul's Lutheran and Trinity Lutheran on Victoria Avenue. The total membership was recognized and four new congregations were officially created – Grace Lutheran in the west, Faith Lutheran in the east, Transfiguration Lutheran on the Hamilton Mountain and St. Paul's, which was renamed St. John's, to serve the downtown area.

The two church buildings, St. Paul's and Trinity, were put up for sale. The Synod directed that the purchase of St. Paul's should be offered to the largest ethnic group worshipping at the church – namely the German congregation, while the other English-speaking congregations would build new places of worship, financed from the sale of the two former churches that was expected to raise \$150,000.

Formally dissolved on May 29, 1955, the first worship service in the renamed St. John's Evangelical Lutheran Church was held on 5 June 1955. Pastor Philipp Weingartner was installed as minister of the new congregation – having come to Canada with his family like many of his parishioners, a refugee from Europe.

Context:

St. John's Evangelical Church is located on the northeast corner of Hughson Street North and Wilson Street (formerly Gore Street). The church fronts onto Wilson Street via its original entrance (39 Wilson Street) and Hughson Street North via a modern three-storey addition to the rear (104 Hughson Street North). Both the church (37 Wilson Street) and the adjacent house (39 Wilson Street) have shallow setbacks from the public right of way.

Associated Person(s): Rev. Thomas Heisse, Pastor Philipp Weingartner

Associated Group(s): Trinity Lutheran Church

Associated Event(s): 1910, creation of Trinity Lutheran Church by English-speaking members of the church; 1955, church reorganization brings new name to the church now St. John's Lutheran Church.

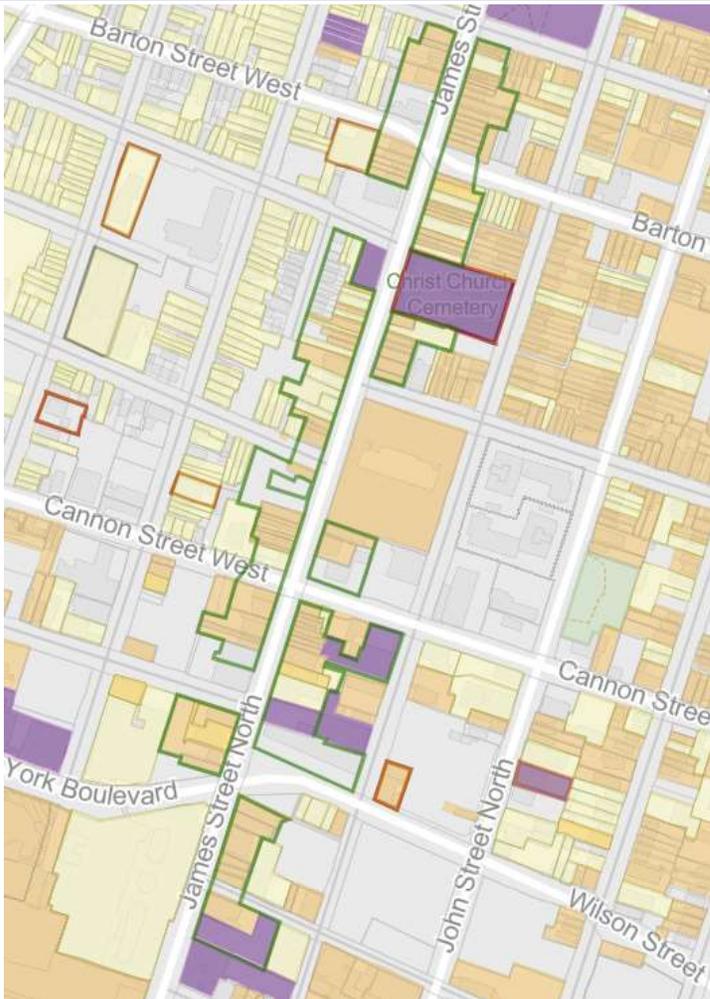
Associated Theme(s): Annual Good Friday Passion Tide Concerts, Preservation of German language, served as Mother Church on Hamilton's Lutheran congregations during reorganization in 1950s.

References: St. John's Evangelical Lutheran Church scrapbook (HPL)



Source: +VG Architects

JAMES ST N - CULTURAL HERITAGE LANDSCAPE (INVENTORIED)



Map of James St. N. inventoried Cultural Heritage Landscape [Source: City of Hamilton]

The Provincial Policy Statement (2005) defines a cultural heritage landscape (CHL) as a defined geographical area of heritage significance which has been modified by human activities and is valued by a community. It involves a grouping(s) of individual heritage features such as structures, spaces, archaeological sites and natural elements, which together form a significant type of heritage form, distinctive from that of its constituent elements or parts. Examples may include, but are not limited to, heritage conservation districts designated under the Ontario Heritage Act; and villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways and industrial complexes of cultural heritage value.

The portion of the development property identified as 108 James Street North is within the CHL district inventoried as part of the City's cultural heritage resources and has a municipal designated Property Plaque on site. The CHL extends from Murray Street East southward to the 1923 Lister Block at 28 James Street North. It is comprised of Candidates for Designation, National Historic Sites, Designated Properties, Registered Properties and Inventoried Properties.

The 1979 image shows the rich texture of James Street North as a bustling urban landscape. Many historic sites are adjacent to the CHL, and form part of the collective urban fabric. The Tivoli Theatre and the residential house at 115 Hughson Street are both sites adjacent to the CHL. Cultural Heritage Impact Assessments (CHIAs) and conservation in general are required for:

- Properties designated under or adjacent to those designated under the Ontario Heritage Act;
- Properties included on or adjacent to those listed on the Municipal Heritage Register;
- Properties included in cultural heritage landscapes listed on the Municipal Heritage Register.



View along James St. with Tivoli Theatre property on the lower left [Source: +VG Architects]

JAMES ST N - CULTURAL HERITAGE LANDSCAPE



View of 108 James St. N. where the 1875 Tivoli Theatre was located [Source: +VG Architects]



View along James St. N. looking south. [Source: +VG Architects]



View from 1 Wilson St. looking south. [Source: +VG Architects]



View along James St. N. looking north from Vine St. [Source: +VG Architects]



View along James St. N. looking north. [Source: +VG Architects]



View of 121 and 127 Hughson St. N. [Source: +VG Architects]

2. HISTORY & EVOLUTION

2.1 HISTORY OF THE TIVOLI THEATRE PROPERTY

Mabel Burkholder writes in her book *The Story of Hamilton* that when the first French explorers arrived at the head of the lake in the seventeenth century, the region was inhabited by the Neutral. The Neutral people numbered around 40,000 and were the largest Indigenous society in the Eastern Woodlands during the early 1600s¹. The population declined during the 17th century and by 1641 Jesuit missionaries recorded that only about 12,000 people remained due to famine, intertribal wars, and diseases introduced by the Europeans. The increasing importance of European goods caused conflict between Indigenous nations for control of resources and the trade network with the French. After the death of Chief Tsouharissen in 1646, the Neutrals were dispersed by the Seneca and joined other Indigenous nations living nearby to the west and south in the early 1650s.

The City of Hamilton lies on the land of 'Between the Lakes Treaty (No. 3)' which was negotiated in 1784 and updated in 1792². A Royal Proclamation in 1793 recognized Indigenous sovereignty over the land they occupied, and if the Crown needed land, they had to purchase it from the Indigenous occupants. Treaty No.3 between the Mississaugas of the Credit and the British Crown covers approximately 3 million acres between Lake Huron, Lake Erie and Lake Ontario.

The property was initially built as a carriage factory in 1875. However, this purpose ended in 1901. By 1908, it was converted into the first in a series of theaters: the Wonderland, followed by the Colonial (1910-1912), and the Princess (1913-1923). These were situated in the original carriage factory and eventually functioned as the lobby for the Tivoli Theatre. In 1924, the facility underwent significant expansion with the construction of an auditorium at the back of the site. It was then dubbed "The Tivoli" and became a well-known venue for vaudeville performances and motion pictures. It gained recognition for being the first cinema in Hamilton to show movies with soundtracks.

The initial carriage factory was constructed in the Second Empire architectural style by Albert H. Hills, an architect from Hamilton. However, the distinctive characteristics of the building no longer exist. The auditorium's interior was crafted by Toronto architect B. Kingston Hall, who incorporated an Italian Renaissance aesthetic. This includes a proscenium, an elliptical ceiling, ornamental cornice and frieze, as well as six-arch colonnades lining each side wall. The arches next to the stage have bronze statues of Augustus and Minerva, while the bases of the other arches are adorned with medallions depicting the four seasons.

The original elements mentioned below pertain to the residual characteristics that were identified as reasons for designating the property. It is important to note that these elements do not encompass any exterior aspects.

After undergoing significant modifications in 1943, 1947, and 1954, the Tivoli cinema theatre discontinued operations on September 28, 1989. It was then repurposed as a store space for music sales and later used by several community theatre companies.

In June 2004, the southern façade of the 1875 carriage factory section of the Tivoli Theatre complex experienced a structural breakdown. The City Council, during its meeting on September 15, 2004, granted a demolition permit for the remaining section of the carriage factory in the complex, with the exception of the lobby component built in 1908. The carriage factory portion underwent partial demolition in order to stabilize the building and ensure its safety and security.

The stabilization process also included the removal of the designated James Street west façade and several architectural features. These features consisted of round-arched windows with two-over-two sash windows and ornate moulded surrounds, a gabled dormer window, a tall mansard-roofed tower, a convex-shaped corner tower with narrow, paired arched dormers topped by circular windows, and a bracketed cornice.

After the roof structure and masonry wall on the south side of the carriage factory section of the theater complex failed in June 2004, demolition work was done to stabilize the surviving building. The Canadian Ballet Youth Ensemble obtained ownership of the site in 2006 and conducted feasibility studies from 2007 to 2009.

The Tivoli Theatre's historical and architectural significance, coupled with its role in enhancing the cultural landscape of Hamilton, underscores the importance of its preservation and protection under heritage legislation.



Grant to Joseph Brant, 1792 map showing the "Between the Lakes" area of Treaty No. 3. Library and Archives Canada, 2000215462

1 <https://www.thecanadianencyclopedia.ca/en/article/neutral>

2 <https://hamiltoncivicmuseums.ca/exhibition/treaties/between-the-lakes-treaty-no-3/>

2. HISTORY & EVOLUTION

2.2 EXISTING CONDITIONS

The building was visited by +VG Architects on June 5th, 2024. Previous visits and reports were conducted by structural and environmental engineers as summarized below. Overall, the building has continued to deteriorate quickly over the past decade. Water has infiltrated the walls due to collapsed sections of the roof, significantly impacting the structural elements including the wood floor system of the house.

Hazardous materials that were once intact such as plaster asbestos fibres are now dispersed around the building interior, contaminating other surfaces. Other building systems and materials are presumed to contain hazardous elements such as lead, mercury, silica, polychlorinated biphenyls and ozone-depleting substances. Mould growth is evident on interior surfaces and biological contaminants (animal waste) are visible in parts of the attic and likely present elsewhere in the building.

ARCHITECTURAL

HERITAGE ATTRIBUTES

According to the Standards and Guidelines for the Conservation of Canada's Historic Places, conservation would ideally include re-use of the designated theatre. If this can not be achieved and a demolition application is intended, the intent of conservation is to fully document the existing heritage resource including on-site investigation as well as archival and oral history research as the basis for assessment of current conditions and previous maintenance and repair work.



Tivoli Property exterior keyplan [Source: +VG Architects]



E.1



E.2



E.3

Exterior images [Source: +VG Architects]

STRUCTURAL

Recent structural investigations have been conducted by consulting engineers. The building is found to be generally in poor condition.

FEBRUARY 2024 REPORT

Kalos Engineering, a Hamilton firm located at 300 York Boulevard, prepared a Building Condition Assessment in February 2024. The condition assessment is based on visual examination of the existing 1924 theatre structure which, as noted in the report has not been operational for many years and has been closed and unheated. The full report can be found in Appendix A1.

Generally the building was found to be in poor condition:

- Exterior brick and clay tile walls are significantly deteriorating on both the interior and exterior sides.
- The roof structure is comprised of gypsum-based roof deck panels which loses structural integrity when it becomes wet, and heavy moisture is evident. Portions of the roof are collapsing and there is shoring in place to sustain the loads. The roof will need to be rebuilt.
- The plasterwork indicates moisture in the walls as evidenced by the peeling paint and plaster.
- Floor framing would require removal of damaged members and reinforce the floors to meet current day loading requirements.

The report concludes that the building “should be considered past the point of restoration as the aging walls and roof structure should be replaced”.

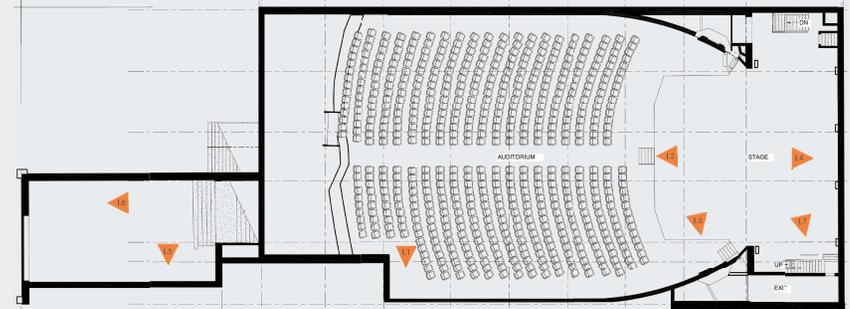
HAZARDOUS MATERIALS

Access Environmental Solutions located in Waterloo Ontario were retained to complete an environmental assessment of the Tivoli Theatre building in April 2024. Designated substances and hazardous building materials were found throughout as summarized below. The full report can be found in Appendix A3.

Asbestos

Asbestos was confirmed in the following building materials:

- parging insulation (Alabastine®) at the brick chimney wall
- floor tile and mastic in the second floor projector room
- floor tile and mastic in the second floor washroom area
- various floor levelling compounds and underlying floor mastic present in the front entrance area
- parging cement fitting insulation on pipes in crawl space below front lobby area (generally in poor condition) – parging cement insulation is likely present concealed throughout the building
- thermal pipe insulation on pipes in crawl space below front lobby area (generally in poor condition) – pipe insulation is likely present concealed throughout the building



Tivoli Property interior keyplan [Source: +VG Architects]



Interior images [Source: +VG Architects]

2. HISTORY & EVOLUTION

- plaster on walls, ceilings, ornamental mouldings throughout subject building (see note below)
- mastic on the floor throughout the front lobby area
- texture finish on walls and ceilings in storage room at the back right corner of backstage area

The condition of the asbestos-containing plaster throughout the building is noted to be extremely poor with widespread damage. All building surfaces are recommended to be treated as contaminated with asbestos fibres.

Asbestos is also presumed to be present in mechanical, electrical, plumbing and building systems such as fabric connectors on ductwork in the basement, sheathing on electrical wiring, electrical components, cast iron pipe connections, fiberglass insulation and other surfaces throughout the building (contaminated with asbestos fibres from damaged plaster).

Lead

Various paint and surface coatings were tested by Reveal Environmental Inc. in April 2017 and found to have varying concentrations of lead. Access presumes that untested paint and surface coatings also contain lead, and report their deteriorating condition of extensive peeling and flaking and debris on surfaces. Lead is also presumed to be present in:

- batteries (i.e., emergency lighting, exit signs etc.)
- cable and wire sheathing
- cast iron pipe gaskets and connections
- pipes
- solder used on domestic water lines, bell fittings for cast iron pipes, electrical equipment
- structural steel primer

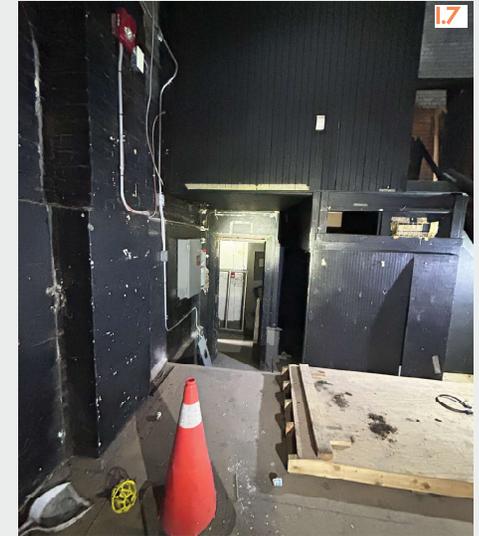
Mercury

Access reports that mercury is suspected to be present in compact fluorescent lights as well as paints and adhesives.

Silica

Access also notes that silica may be present in the following materials:

- concrete and cement
- masonry and mortar
- block walls
- paints
- plaster and stucco
- drywall



Interior images [Source: +VG Architects]

TIVOLI THEATRE STATUARY

The Heritage Designation of the Tivoli Theatre notes the two bronze statues framed in the arched recesses beside the proscenium as Caesar Augustus and Minerva. One a popular emperor at the turn of the millennium, the other a mythical goddess worshipped in the Roman religion at the time. Further investigation has determined that both statues are in fact plaster. [Refer to testing report in Appendix 5.4]

Caesar Augustus

Historians mark 27 BCE as the end of the Roman Republic because it was the year that the senate conferred on Octavian (Caesar Augustus) the title of Augustus (The "Revered one"). Augustus' ascension to the participate was aided not only by the fact that he was the adoptive son of Julius Caesar, whom the senate had just deified, but also by his keen use of art and architecture as a broad part of his propaganda.

Rome's first Emperor Caesar Augustus is known for numerous architectural masterpieces such as the Theatre of Marcellus and the Forum of Augustus, and especially the rebuilding of urban Rome.

The Caesar Augustus statue in the Tivoli is strikingly similar to the Augustus of Prima Porta discovered during archaeological excavations in 1863, believed to be a copy of the lost original bronze from the 1st century CE. The inclusion of a baby Cupid riding a dolphin (also a structural support for the statue) shows a mythical connection to the goddess Venus (Cupid's mother) by way of his adopted father Julius Caesar.

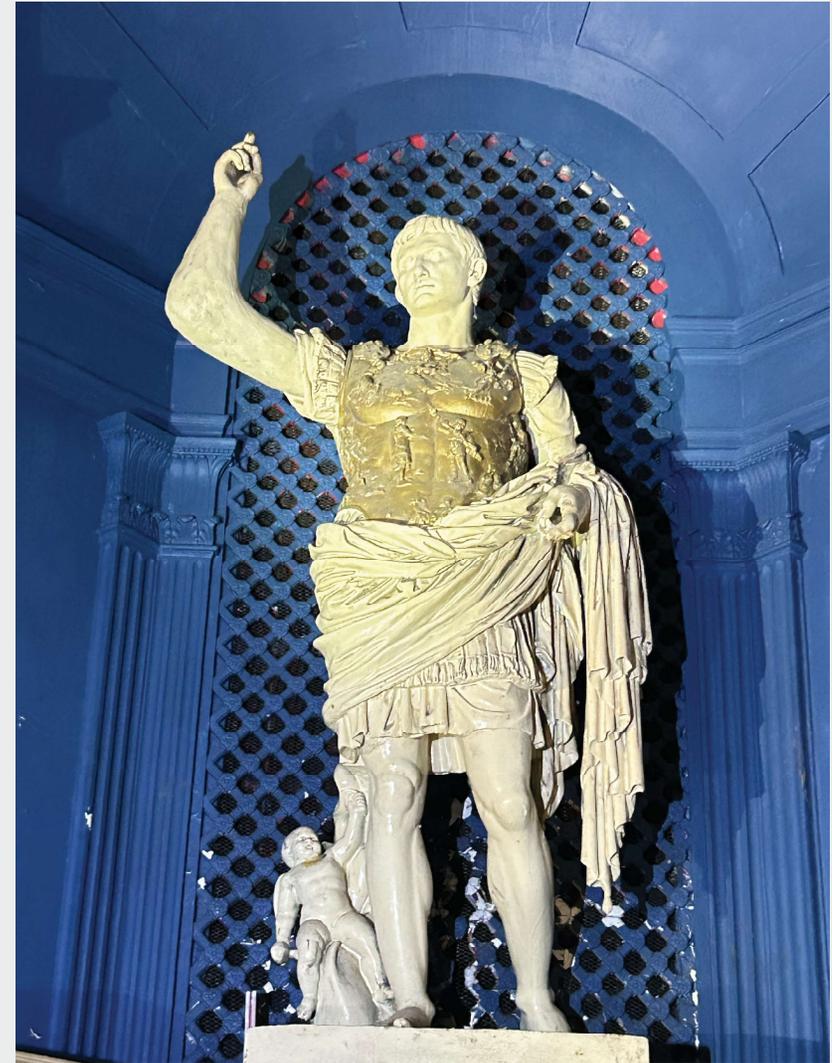
Minerva

Commonly identified with the Greek goddess Athena, Minerva was the Roman goddess of wisdom, inspirer of philosophers, craftsmen and artisans, and later, goddess of war. She was part of the Capitoline Triad, a trio of gods worshipped by the ancient Romans consisting of Jupiter, head of the triad, Juno his consort, and Minerva his daughter. The Triad was worshipped on Capitoline Hill, the smallest of Rome's seven hills.

Minerva at the Tivoli depicts her later incarnation as a military figure wearing floor-length robes and a leather shield fixed with a Medusa head thought to ward off evil. This 18th century version similar to Minerva at the Metropolitan Museum of Art, also sports a Corinthian battle helmet pushed back to show her face and a raised hand holding a spear.

Why are Caesar Augustus and Minerva at the Tivoli Theatre in Hamilton?

Along with the Italian Renaissance inspired auditorium interior, the two statues pay homage to the ethereal Roman world when humans and gods walked together. Extraordinary arts, architecture and urban design were created in Rome. With human Caesar Augustus and goddess Minerva placed on each side of the stage, they remind the audience and actors of grandeur and excellence, and a magical world where all is possible. Human experience and the divine inspire stories, ideas and collaborations.



Caesar Augustus statue [Source: +VG Architects]

3. HERITAGE VALUES

3.1 HERITAGE DESIGNATION SUMMARY

The significance of the Tivoli Theatre as a cultural heritage resource was recognized by the City of Hamilton in 1990 through a designation by-law to protect it for the long term. With the demolition of the portion of the Tivoli Theatre on James St. N. in 2004, a second by-law was written to designate the remaining Tivoli Theatre Auditorium and Fly Gallery. The two designations cite the cultural heritage value as noted below.

1. By-Law No. 90-255 for property at 108-112 James St. N.

According to the current heritage evaluation criteria O. Reg 569/22, the 1990 Designation cites heritage value in:

- The Design or Physical Value,
- Historical or Associative Value, and
- Contextual Value.

2. By-Law No. 04-256 for property at 111-113 Hughson St. N.

According to the current heritage evaluation criteria O. Reg 569/22, the 2004 Designation cites heritage value remaining in:

- The Design or Physical Value, and
- Historical or Associative Value.

The remaining portion of the Tivoli Theatre is the auditorium building at 111-113 Hughson St. N., under the 2004 designation. The building is historically significant as the first theatre in Hamilton to introduce sound movies in the late 1920s, and was among the seven largest and grandest in the City. The Theatre is architecturally significant on the interior in the "Italian Renaissance" style designed by Toronto architect B. Kingston Hall.

The designated features identified include the original architectural features of the auditorium including:

- The ceilings,
- Proscenium,
- Colonnades,
- Statuary, and
- Other decorative wall elements.

A heritage evaluation summary is provided on the following pages which offers a comparison of the heritage value from both by-laws as well as a current observations (2024). The full designation by-laws are included in Appendix A.2.



Tivoli Auditorium view from the stage looking toward the projection box. (+VG Architects)



Tivoli entrance lobby looking to the main doors. (+VG Architects)



Tivoli Auditorium view to the stage and proscenium with side colonnades. (+VG Architects)

3.2 HERITAGE EVALUATION

The property located at 108 – 112 James Street North extending to Hughson Street, Wilson Street and Cannon Street was designated in 1990. In 2004, when the James Street North portion of the theatre was demolished, a new designation by-law was provided for the remainder of the building located at 111-113 Hughson Street North. Because the Tivoli Theatre building fronting James Street North was demolished in 2004, the contextual and physical value of the property has been diminished, as evidenced in the evaluation chart below comparing the two designations. A current evaluation for 2024 has been added as a third column as an update based on recent building assessments.

The evaluation chart is based on the Criteria for Determining Cultural Heritage Value or Interest under O.Reg. 569/22 which came into effect January 1, 2022, amending the previous regulation O.Reg. 9/06. The nine identified criteria fall under three categories – design or physical, historical or associative, and contextual.

	Ontario Regulation 569/22	Tivoli Theatre Heritage Evaluation 1990 (Based on the 1990 Designation By-Law 90-255)	Tivoli Theatre Heritage Evaluation 2004 (Based on the 2004 Designation)	Tivoli Theatre Heritage Evaluation 2024 (Based on site visits and building condition assessments)
	DESIGN OR PHYSICAL VALUE			
1	The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method.	Yes The theatre building on James St is an early example of the Second Empire style which features a steeply-pitched mansard roof with dormers, the bracketed cornices and rich classical detailing.	No The James Street building was demolished in 2004.	No The James Street building was demolished in 2004. The remaining 1924 auditorium portion is constructed as a brick box housing the auditorium and fly tower and not considered as having noteworthy attributes on the exterior.
2	The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.	Yes <u>Exterior:</u> Detailed features of the James St building include the round-arched windows with two-over-two sash windows and ornate moulded surrounds, the gabled dormer windows, and the tall mansard-roofed tower. This convex-shaped tower displays narrow, paired arched dormers surmounted by circular windows and a bracketed cornice, originally crowned by ornamental Iron cresting. The later Tivoli Theatre entrance originally featured an octagonal ticket office and an ornamental sign marquee, above which was a vertical "Tivoli" sign projecting at right angles to the street. <u>Interior:</u> The theatre house is detailed in an "Italian Renaissance" interior. While much of the interior has been removed during renovations undertaken in 1943, 1947 and 1954, the main architectural features of the auditorium are largely intact. The craftsmanship is evident in the detailed plasterwork, both flat and ornamental.	Yes <u>Interior:</u> The auditorium is detailed in an "Italian Renaissance" interior. While much of the interior has been removed during renovations undertaken in 1943, 1947 and 1954, the main architectural features of the auditorium are largely intact. The craftsmanship is evident in the detailed plasterwork, both flat and ornamental.	Yes Interior: The auditorium retains much of its original form and architectural features including the proscenium, the ceiling with its elliptical design, the decorative cornice and frieze below, the colonnade comprising six round arches and coupled pilasters on the side walls. The two terminating arches each retain their original statue, Caesar Augustus and the goddess Minerva. Heavy water damage has affected the integrity of these heritage features in many areas including the ceiling, exterior walls, the cornice and frieze, general plasterwork and the colonnade at the rear of the auditorium. The structural report summarizes the extent of the damage to the integrity of the building.

3. HERITAGE VALUES

3	The property has design value or physical value because it demonstrates a high degree of technical or scientific achievement.	No The designation does not note this type of merit.	No The designation does not note this type of merit.	No At the time of building, the Second Empire building style was popular and while impressively detailed, the Tivoli's exterior and interior are likely not considered of technical or scientific achievement.
	HISTORICAL OR ASSOCIATIVE VALUE			
4	The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.	Yes The original 1875 building was designed by Hamilton architect Albert Hills as a factory for John P. Pronguey, a carriage designer and maker. Albert Hills completed hundreds of works in the City – residential, ecclesiastical, institutional, commercial and industrial. The 1924 expansion showcased a new auditorium interior designed by architect B. Kingston Hall. The Tivoli has an important place in Hamilton's theatre history with many iterations including as Hamilton's first film theatre, a vaudeville theatre and motion picture house, the first to introduce sound movies in the late 1920s. Of the numerous theatres built in Hamilton in the 20 th century, only the Tivoli retains any part of its original interior décor.	Yes The Tivoli, a vaudeville theatre and motion picture house, was the first theatre to introduce sound movies in the late 1920s. Of the numerous theatres built in Hamilton during the early 20 th century, the Tivoli counted among the seven largest and grandest, the most resplendent were the Capital and the Palace. All but the Lyric (now the Century) and the Tivoli have been demolished; and of these two only the Tivoli has retained any part of its original interior décor.	Yes The Tivoli Theatre remains a legend in Hamilton's entertainment evolution and therefore of historical value. The architects who designed the theatre buildings and interiors also contribute to the historical context of Hamilton. Note: the Century (Lyric) Theatre noted in the 2004 Heritage Designation was demolished in 2010.
5	The property has historical value or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.	Yes As a public venue, the Tivoli has historical and associative value of community and cultural changes over a period of time. With technological advancements, economic and social changes, the Tivoli adapted to various iterations of theatre venue.	Yes As a public venue, the Tivoli has historical and associative value of community and cultural changes over a period of time. With technological advancements, economic and social changes, the Tivoli adapted to various iterations of theatre venue.	No The site remains empty after the demolition of the James Street portion of the building. The remaining auditorium has been unoccupied for many years and its presence as a theatre and public space is not distinguishable from other factory type buildings in the area. Unless recommissioned, it does not contribute to the community.
6	The property has historical value or associative value because it demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.	Yes Albert Hills, Architect The original 1875 building was designed by Hamilton architect Albert Hills as a factory for John P. Pronguey, a carriage designer and maker. Albert Hills designed a significant number of buildings as noted above. B. Kingston Hall, Architect The interior was designed by Toronto architect B. Kingston Hall who formed a partnership with Herbert G. Duerr in late 1919. Together they specialized in design of movie theatres which the Tivoli Theatre in Hamilton is the best known.	Yes	Yes The legacies of the two architects associated with the Tivoli Theatre remains an important contribution to the community and development of the city of Hamilton.

3. HERITAGE VALUES

	CONTEXTUAL VALUE			
7	The property has contextual value because it is important in defining, maintaining or supporting the character of an area.	Yes The property contributes to the character of the area as an early theatre district along with the Grand Opera House and Hotel, both demolished in 1960 and 1986 respectively.	No	No Demolition of the original Tivoli and adjacent buildings over the years has diminished the contextual value of the property. The remaining auditorium now appears as an isolated brick block, no longer linked to its original prominent and architecturally significant James St. N. entrance building or the early theatre district.
8	The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.	Yes The prominent James Street building makes this an impressive visual terminus to the block extending from Cannon to Wilson Street.	No	No
9	The property has contextual value because it is a landmark.	Yes The architecturally detailed façade, dominant corner tower and high visibility is a major contributing component of the James North heritage streetscape.	No	No

END OF TABLE

4. PROPOSED DEVELOPMENT

4.1 DESCRIPTION OF NEW DEVELOPMENT

The key objectives of the development are to honor the cultural and historical significance of the Tivoli Theatre and to offer a range of housing types and sizes within a vibrant, livable community. Additionally, the project aims to create a transit-oriented community that ensures easy access to public transportation. Enhancing the public realm by improving pedestrian pathways and public spaces is also a priority. Furthermore, the development seeks to establish strong architectural relationships, ensuring smooth transitions and connectivity to surrounding streets, while aligning with the planned building forms, heights, and scales of the neighboring areas. The proposed development as described and illustrated in the following pages is under senior review by Aventus and subject to changes.

The proposed development showcases a contemporary multi-storey structure, including a corner block of the same size and location as the original Tivoli Theatre. The new corner block is inspired by the Second Empire style original design through massing, rhythm of fenestration, patterns and the iconic entrance and marquee as illustrated on the elevation drawing on Appendix section A.6.2, page 60. Above this corner section, a modern high-rise tower extends upwards, characterized by sleek glass and metal elements that contrast with the referential base.

The high-rise structure is designed to provide residential units with commercial spaces at street level, aiming to create a vibrant mixed-use environment. The architectural design emphasizes verticality and modernity while respecting and incorporating heritage elements of the Tivoli Theatre. The development also features provisions for parking and active transportation, with sub-grade parking facilities for residents and visitors, as well as designated bicycle parking. The height of the building is proposed to be in the range of 32-35 storeys.

The project aims to commemorate the intangible heritage values associated with the Tivoli Theatre's landmark features such as the James St. marquee, main entrance and store front, and integrating them into the new development. It also focuses on creating a livable community with diverse housing options, enhancing the public realm through improved pedestrian pathways and public spaces, and establishing a strong relationship with the surrounding streets and neighborhoods. The design ensures a smooth transition and compatibility with the adjacent built forms, maintaining the height, scale and harmony with the existing urban fabric.

At ground level, the experience begins in an interpretive center that serves as both a lobby and a gateway to the skybridge event space. This welcoming area is open to the public, providing an accessible link to the past through a carefully curated collection of interpretive materials from the original Tivoli Theatre, featuring displays that chronicle its rich history. Visitors can explore a timeline of photographs, memorabilia, and architectural fragments that tell the story of the theater's glory days, its significance in the community.

From the interpretive center, visitors ascend to the skybridge event space via a dedicated elevator designed to echo the grandeur of the theater's original lobby. This elevator ride is more than just a transition between floors; it's a metaphorical journey through time, drawing on collective memories of the Tivoli Theatre to create a profound sense of connection between past and present.

Perched high above Hamilton, a skybridge elegantly connects two modern residential towers, creating a unique architectural focal point that honors the city's rich cultural heritage. This structure isn't just a bridge; it's a tribute to the iconic Tivoli Theatre, now transformed into an event space with panoramic views that stretch from the Hamilton escarpment to the Toronto skyline. The skybridge design is under structural review and subject to change.

The heart of the skybridge is a 9,000 square foot event space, a contemporary homage to the former Tivoli Theatre. This elevated venue serves as a vibrant hub for the community, capable of hosting a wide range of events from art exhibitions to community gatherings. With floor-to-ceiling windows, guests are treated to breathtaking vistas, capturing the essence of Hamilton while framing the distant Toronto skyline.

The intent of the skybridge theatre space is to showcase this iconic development with an equally iconic event space. However, if the skybridge is not feasible, the event space will still be proposed on an upper floor of the development, with the same intent of creating an iconic building.

The skybridge itself is a unique feature in the design. Its sleek, glass-walled structure offers a sense of openness and light, creating a floating sensation as guests move between the two towers. The bridge not only connects physical spaces but also symbolically links the past with the present, bridging the gap between history and modernity.

From the skybridge, visitors can gaze out over Hamilton, seeing the city from a new perspective. To the east, the distant silhouette of Toronto is visible on clear days, providing a striking contrast to the rugged beauty of the Hamilton escarpment to the west. This duality of views mirrors the juxtaposition of old and new embodied in the Tivoli Theatre's commemoration. The interpretive design element on James St. N. not only commemorates a beloved local landmark but also offers a unique gathering place that celebrates Hamilton's past while looking forward to its future. Through its design, it ensures that the spirit of the Tivoli Theatre continues to inspire and unite the community for generations to come.



Proposed Development - View along James St. N showing interpretive design element [Source: +VG Architects]

4.3 RATIONALE AND ALIGNMENT WITH POLICIES AND GUIDELINES

The information below provides the heritage policy context for the proposed development.

4.3.1 PROVINCIAL POLICY

Provincial Policy Statement, 2020

The Provincial Policy Statement in the Planning Act provides policy direction on matters of provincial interest related to land use planning and development. Policies that apply to built heritage are found in Section 2.6 Cultural Heritage and Archaeology, and direct that built heritage resources and landscapes shall be conserved.

Ontario Heritage Act, R.S.O. 1990, c. O.18

The Ontario Heritage Act (OHA) determines the policies, priorities and programs for the conservation, protection and preservation of Ontario's heritage. This report is guided by O.Reg. 569/22 of the Ontario Heritage Act, Criteria for Determining Cultural Heritage Value or Interest which provides an evaluation framework for determining heritage value.

Ontario Ministry of Citizenship and Multiculturalism (MCM)

MCM provides agency Ontario Heritage Trust (OHT) with a mandate is to conserve, interpret and share Ontario's heritage, and provides expertise in this matter. Through this agency, the Ontario Heritage Toolkit provides core guidance to users of the Ontario Heritage Act.

4.3.2 MUNICIPAL POLICY

Heritage conservation is regulated by the following municipal bodies and policy documents.

Urban Hamilton Official Plan (2013)

The following sections of the Urban Hamilton Official Plan apply:

Section B.3.4.1.3 "Ensure that all new development, site alterations, building alterations and additions are contextual appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources." and,

Section B.3.4.2.1 (g) "Ensure that conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals."

Section B.3.4.2.12 requires that a CHIA be submitted with any future application.

Downtown Hamilton Secondary Plan

The following sections of the Downtown Hamilton Secondary Plan apply:

Section 6.1.3.1 (a) "Conserve and enhance the built heritage resources and cultural heritage landscapes of Downtown Hamilton," and,

Section 6.1.3(b) "Ensure that new development is compatible with the design of surrounding built heritage resource buildings."

Consultation with Heritage Planning Staff:

Consultations with City of Hamilton staff in late 2023 and July 30th 2024 confirmed submission requirements for the Heritage Permit application process for the proposed development.



Tivoli Theatre - Front Facade [Source: Hamilton Public Library]

5.0 IMPACT OF THE PROPOSED DEVELOPMENT

5.1 ANALYSIS OF POTENTIAL IMPACTS

The development proposes to demolish the remaining portion of the Tivoli Theatre building, the auditorium. The conditions of the current building conditions render it structurally unstable in many areas and the interior is coated with hazardous materials including the plaster finishes – walls, ceiling and the historic ornate decorative details. Aside from the damaged conditions, the space has been considered for reuse by the current owner, but is not considered a workable size for the event space and the large sloping floor adds complications for reuse.

Negative impacts of the proposed development are the full demolition of remaining heritage attributes of the Theatre. The impact is physical loss of interior original heritage fabric of 1924. There will be no opportunity for the public to engage with the space to see its grandeur of another time. The last show at the theatre in 1989 marked the end of its theatre era and has been closed to the public for many years since. Building owners have used it for various leasehold spaces since. Unless there is a theatre use for the space, any change in use would diminish the theatre's integrity through reshaping or reduction of the auditorium size, and change the architectural features significant to the Italian Renaissance style – proportions, symmetry, detailing and overall grandeur. The ornate ceiling for example would likely need to be divided in portions to serve the new re-proportioned interior spaces which is a damaging outcome for a unique historic venue.

The loss in the neighbourhood is part of the vanishing historic buildings which have characterized the area over the years. Demolitions along James Street North have contributed to the loss of associations with the early theatre district and visual impact of the star marquee of the Tivoli. Some of the theatre and urban fabric losses in the area include:

- Grand Opera House, James St N and Gore St /Wilson St
- Century (Lyric) Theatre, Mary Street
- Savoy Theatre, Merrick Street/York Blvd
- Alexandra Arcade Theatre/Canada Business College, James St N
- Griffin Theatre, James St N
- Canada Sewing Machine Factory, Vine St and James St N
- Knox Presbyterian, Cannon St
- City Hall, James St N

Previous ownership of the building has demonstrated a recent history of poor maintenance and lack of mothballing practices that has led to the degradation of the Tivoli Theatre despite support from the City over the years to assist owners with conservation of the building. The Tivoli Theatre event and ownership timeline is provided in the table on the following page.



Passerby observe the damage in the Tivoli wall [Source: Hamilton Public Library]

5.0 IMPACT OF THE PROPOSED DEVELOPMENT

OWNERSHIP AND EVENT TIMELINE		
TIMING	EVENT	SOURCE
1875	Carriage Factory.	National Trust
1901	Carriage Factory ceased.	
1907	Storefront Nickelodeon.	National Trust
1908	Wonderland Theatre, within original Carriage Factory.	Hamilton Public Library - Archives
1910-1912	Colonial Theatre, within original Carriage Factory.	
1913-1923	Princess Theatre, within original Carriage Factory.	
1924	Auditorium added and property renamed The Tivoli.	
1943, 1947 & 1954	Substantial renovations.	
09/28/1989	The popular movie house closed in September 1989.	cinematreasures.org
July 1989 113 Hughson St N 114 James St N	Transfer to Sniderman Radio Sales and Service Limited	GeoWarehouse
March 1990 111 Hughson St N	Transfer to Main Entrance Entertainments Inc.	GeoWarehouse
1995	Venue for live stage shows.	National Trust
May 1997 113 Hughson St N 114 James St N	Transfer to STRM INC	GeoWarehouse
1998-2004	Rented to local theatre company, Tivoli Renaissance Project, as last known use.	2023 Article
June 2004	Structural failure of roof and masonry wall on southern Carriage Factory façade, pushing debris through an exterior wall. City took over property to secure it and removed the third floor, front wall, cupola and light-bulb encrusted Tivoli marquee.	National Trust & 2013 Article
09/15/2004	City Council approved demolition for the remainder of the Carriage Factory, excluding 1908 lobby.	
Late 2004	City demolished front portion of the building, including original facade on James Street North and long lobby leading to theatre and washrooms, at their expense of \$300K.	2013 Article
2005	Owner applied for permit to demolish everything that remained, including auditorium.	National Trust
April 2006 111 Hughson St N	Transfer to STRM INC	GeoWarehouse

OWNERSHIP AND EVENT TIMELINE		
TIMING	EVENT	SOURCE
September 2006 111 Hughson St N 113 Hughson St N 114 James St N 108 James St N	Transfer to Hamilton Ballet Youth Ensemble	GeoWarehouse
August 2007 115 Hughson St N	Transfer to John Bondy; Patricia Bondy	GeoWarehouse
2008	City issued \$20K grant to pay for heritage feasibility study.	2013 Article
2009	City issued \$75,455 grant for building stabilization and heating improvements.	
December 2009	City issued \$50K interest-free loan to retrofit the theatre's roof, which remained outstanding as of 02/14/2013.	
March 2013 108 James St N	Transfer to 1150735 Ontario Ltd.	GeoWarehouse
March 2013 108/114 James St N & 111/113/115 Hughson St N	Transfer to 1867470 Ontario Inc.	GeoWarehouse
January 2020 108/114 James St N & 111/113/115 Hughson St N	Transfer to 1150735 Ontario Ltd.	GeoWarehouse
2021	Approved Risk Assessment, required under MOE, per Diamante Investments.	2021 Article
Unknown	Structural reinforcement and heating added, per Diamante Investments.	
March 2022 108/114 James St N & 111/113/115 Hughson St N	Transfer to 1000052623 Ontario Inc.	GeoWarehouse
2023	Formal Consultation (FC-23-053).	Development Map

Unfortunately the building has continued to deteriorate over the past years and lack of adequate stabilization has undermined the stability of the remaining Tivoli Theatre auditorium. Structurally compromised in areas and significantly contaminated by hazardous materials due to deteriorating conditions presents need for review of alternatives and mitigation measures to ensure the legacy of the Tivoli Theatre is not lost. Conservation measures required under the Standards and Guidelines of Canada's Historic Places are to fully document the remaining features of the building and commemorate its story through interpretive works.

6. HERITAGE CONSERVATION APPROACH

6.1 ALTERNATIVES OR MITIGATION MEASURES

The conditions of many areas of the current building are described as structurally unstable in the building condition report. The interior is also noted as coated with hazardous materials including the plaster finishes – walls, ceiling and the historic ornate decorative details. Below are some of the measures intended to commemorate the historic building.

The most current option incorporates a re-imagined development that features an architectural tribute to the Tivoli building Second Empire style. The north corner of the new James St N development is characterized by a three and half storey building located on the original Tivoli location. The intent of the building design is to re-interpret the 1924 structure in massing, materials and detailing that contributes to the urban fabric of the James St N inventoried Cultural Heritage Landscape.

The new ground level entrance under the new marquee will allow the public to step inside to view a curated collection of Tivoli history integrated into a new gallery/museum space. Inside is an opportunity to convey the unique story of the Tivoli Theatre to residents and visitors to the city. Salvaged or recreated plaster work and details will be featured in the space along with the interpretive materials that celebrate the Italian Renaissance style interior and history of one of Hamilton’s key entertainment venues.

In terms of the heritage attributes listed in the 2004 heritage designation, the developer’s intent is to replicate the plasterwork such as the proscenium panels and medallions, and feature the details in the design of a new Tivoli Theatre space. If salvageable, Aventus plans to remove the statues and set aside, working with the City to find a suitable new location. Salvage work will depend on the nature and extent of abatement required on the ornate and delicate plaster embellishments.

As part of mitigation, design guidelines should be developed for the project to identify and address urban fabric compatibility through mass, setback, setting and materials, height and density.



James Street View - 1979. Note the distinctive corner tower roof of the Tivoli Theatre in the distance.
 [Source: Hamilton Public Library]

6.2 DOCUMENTATION & SALVAGE RECOMMENDATIONS

TIVOLI THEATRE | DOCUMENTATION + SALVAGE

ARTIFACT CURATION + REUSE RECOMMENDATIONS

September 26, 2024



As part of the CHIA – Documentation and Salvage Plan, the City of Hamilton requires “Artifact Curation and Reuse Recommendations. The Italian Renaissance inspired interior designed by Toronto architect B. Kingston Hall is of high architectural value. The 2004 Designation notes that although past interior renovations have removed or covered some of the original décor, the main architectural features of the auditorium “are still largely intact”. Twenty years later the remaining attributes are listed below with observations from the +VG site visit on June 5th, 2024, images of current conditions and recommendations.

HERITAGE ATTRIBUTE	LOCATION	CONDITION	CURATION/ REUSE RECOMMENDATION	IMAGES
1 Proscenium	Stage arch	General Condition: Fair/ Good Some decorative panels are removed and deterioration of brick tile is evident.	Documentation: Detailed scanning, drawings and descriptions. Reuse: Decorative panels appear to be easily removed. Ideally they would be relocated into the new Tivoli. Note: Two environmental reports identify designated substances and hazardous building materials found throughout the building. Specific to plaster and interior finishes are asbestos and lead paint. Due to deteriorated conditions of the interior, asbestos fibers are noted as having widespread on the interior. Abatement methods may be detrimental to the historic features and further study is required.	
2 Ceiling w elliptical design	Auditorium house	General Condition: Good with areas of heavy damage or missing structure. Areas of damaged and missing ceiling are around penetrations from equipment or fixtures, and areas of water (likely from the failing roof) where plaster has fallen off.	Documentation: Detailed scanning, drawings and descriptions. Ornamental plaster requires careful documentation of the designs, spacing, scale, and location. Note: Two environmental reports identify designated substances and hazardous building materials found throughout the building. Specific to plaster and interior finishes are asbestos and lead paint. Due to deteriorated conditions of the interior, asbestos fibers are noted as having widespread on the interior. Abatement methods may be detrimental to the historic features and further study is required.	

TIVOLI THEATRE | DOCUMENTATION + SALVAGE

ARTIFACT CURATION + REUSE RECOMMENDATIONS

September 26, 2024



HERITAGE ATTRIBUTE	LOCATION	CONDITION	CURATION/ REUSE RECOMMENDATION	IMAGES	
3 Decorative plaster cornice & frieze below	House ceiling perimeter.	<p>General Condition: Good in most areas, however severely damaged or missing in others.</p> <p>Plasterwork is constructed on metal lath which is rusting in areas of the auditorium walls. Ornamental plaster is also failing in many areas. The cycle of moisture, freeze-thaw contribute to continuing deterioration.</p> <p>The area on the southwest corner of the auditorium is severely damaged from water due to the roof breach. Water falls into the auditorium further deteriorating the lower plaster wall.</p>	<p>Documentation: Detailed scanning, drawings and descriptions.</p> <p>Ornamental plaster requires careful documentation of the designs, spacing, scale, and location.</p> <p>Note: Two environmental reports identify designated substances and hazardous building materials found throughout the building. Specific to plaster and interior finishes are asbestos and lead paint. Due to deteriorated conditions of the interior, asbestos fibers are noted as having widespread on the interior. Abatement methods may be detrimental to the historic features and further study is required.</p>		
4 Wall colonnades each w five round arches sprung from coupled pilasters.	On the long walls of the auditorium.	<p>General Condition: Good in most areas, however severely damaged or missing in others.</p> <p>The wall colonnades each have six round arches plus the recessed arch with statutory beside the proscenium.</p>	<p>Documentation: Detailed scanning, drawings and descriptions.</p> <p>Ornamental plaster requires careful documentation of the designs, spacing, scale, and location.</p> <p>Note: Two environmental reports identify designated substances and hazardous building materials found throughout the building. Specific to plaster and interior finishes are asbestos and lead paint. Due to deteriorated conditions of the interior, asbestos fibers are noted as having widespread on the interior. Abatement methods may be detrimental to the historic features and further study is required.</p>		

TIVOLI THEATRE | DOCUMENTATION + SALVAGE

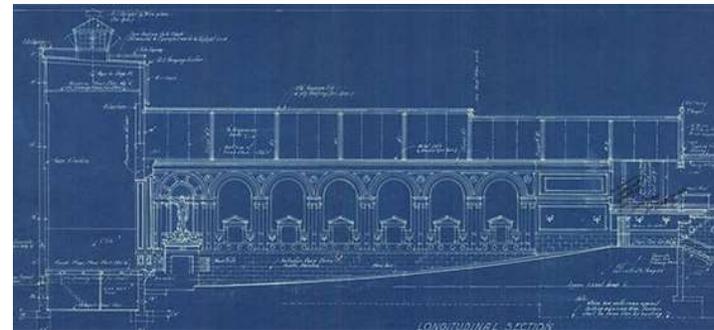
ARTIFACT CURATION + REUSE RECOMMENDATIONS

September 26, 2024



5	Original bronze statues of Caesar Augustus and the goddess Minerva.	The arches at the end of each colonnade are recessed to hold a statue.	<p>General Condition: Good</p> <p>Bronze statues appear to have a coating and require further investigation to determine best restoration approach as well as best removal and relocation methods.</p>	<p>Documentation: Detailed scanning, drawings and descriptions.</p> <p>Reuse: Ideally the two statues would be featured as part of the new Tivoli – proponents and inspirers of the arts, architecture and urban space.</p> <p>Note: a plaster expert has reviewed the two statues and determined that they are plaster and not bronze. Comments relating to plaster in other sections also apply to the statues.</p>	
6	Medallions depicting the four seasons.	At the base of the arches	There are 4 medallions below each arch bay between the paired pilasters depicting the four seasons.	<p>Documentation: Detailed scanning, drawings and descriptions.</p> <p>Ornamental plaster requires careful documentation of the designs, spacing, scale, and location.</p> <p>Reuse: 48 plaster medallions identified should be removed and ideally reused in the new Tivoli. This may not be possible due to the abatement required and recreations could be fabricated.</p>	

The blueprint on the right shows the section and elevation of the theatre. Evident are the architectural strengths of rhythm of the arched colonnade, the proportions of the arched bays, detailed pilasters and inset pedimented sculptures (since removed).



7. CONSERVATION STRATEGY

The conservation strategy is guided by the Provincial Policy Statement (PPS), 2005, specifically items:

2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.

2.6.3 Development and site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

Mitigative measures and/or alternative development approaches may be required in order to conserve the heritage attributes of the protected heritage property affected by the adjacent development or site alteration.

The PPS defines “conserved” as “the identification, protection, use and/or management of cultural heritage and archaeological resources in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.”

The purpose of this Cultural Heritage Impact Assessment is to demonstrate how the Tivoli Theatre will be impacted and conserved in the context of redevelopment. The intent is to salvage and commemorate heritage attributes and the Tivoli Theatre legacy as part of redevelopment, which also includes demolition of the remaining building.

7.1 Conservation Implementation & Monitoring Plan

To safeguard character-defining elements of a cultural resource, heritage conservation identifies actions or processes required as included in the table below.

Conservation Strategy	Estimated Timeline	Monitoring of Activities	Approval Authority
Documentation	2024	Owner to undertake documentation of existing conditions and features of the property.	City of Hamilton
Interim Protection Measures	Ongoing until time of permit approvals.	Owner to maintain protection measures until time of permit approvals.	Not Required
Managing Change	Ongoing to Construction Completion	- Develop CHIA - Develop Design Guidelines	City of Hamilton
Site Work	Upon permit approvals	- Abatement and/or removals of heritage attributes. - Curate Tivoli Gallery space using CHIA resources. - Redevelopment	Not Required

7.2 Conclusions and Recommendations

The Tivoli Theatre is part of the City of Hamilton’s history and early development that characterized James Street North as a thriving business, civic and arts community. The majority of buildings were constructed between 1850 and 1939 according to a 1984 City report “James North Heritage District”. Buildings were typically 3 – 4 storeys in height with elaborate architectural details including cornices, window moldings and trim and brickwork. The unique qualities and history are the reason that James Street North is currently inventoried as a Cultural Heritage Landscape.

As the James Street North district evolves, new development should typically integrate existing structures into the new, to conserve the original and inform the new design. The condition of the building has continually deteriorated over the years, making this integration untenable. The structural and building envelope breaches as well as the extent of hazardous substances on the historic plasterwork have limited the potential for rehabilitation or restoration of the theatre heritage attributes.

Salvage and conservation of these interior heritage features of Italian Renaissance style is part of the redevelopment plan and CHIA recommendations. More information and study is required to determine the feasibility of removal of hazardous substances on the fragile plaster ornamentation, removal and relocation of the features.

As part of the conservation process for demolition, it is recommended that further investigation be undertaken for:

- Feasibility of remediation of interior heritage attributes.
- Development of design guidelines for the site that respond to Tivoli Theatre qualities such as principles of Second Empire architecture, a marquee entrance, feature lighting, theatrical inspired spaces and details.
- Creation of an interpretive/commemorative plan including historic documentation, materials, signage and architecture.
- Detailed documentation of the existing building and spaces for the City’s archival records prior to demolition.

7.3 Citations

Reference materials and resources are provided in Appendix A.1

A. APPENDIX

A.1 REFERENCES/ CITATIONS

TIVOLI THEATRE CHIA RESOURCES

Burkholder, Mabel The Story of Hamilton, David-Lisson Limited, Hamilton c. 1938

Houghton, Margaret Hamilton Street Names: An Illustrated Guide, Lorimer, Hamilton c. 2002

Houghton, Margaret (Ed.). Vanished Hamilton IV, North Shore Publishing Inc. Burlington c. 2012

Designation By-Law No. 90-255, Tivoli Theatre 108-112 James Street North – September 19, 1990 <https://www.heritagetrust.on.ca/en/oha/details/file?id=4159>

Designation By-Law No. 04-256, Land Located at 111-113 Hughson Street North – August 12, 2004
 Schedule "A" Property, Schedule "B" Tivoli Theatre Auditorium
<https://www.hamilton.ca/sites/default/files/2022-01/04-256.pdf>

<https://archive.nationaltrustcanada.ca/issues-campaigns/top-ten-endangered/explore-past-listings/ontario/tivoli-theatre>

<https://www.doorsopenontario.on.ca/hamilton-1/tivoli-theatre>

DRAWINGS

Tivoli Theatre Plans [Blueprints, Section/Elevation]

Tivoli Theatre Plans 1926 [Blueprint, House Floor Plan]

https://www.archives.gov.on.ca/en/explore/online/historytheatres/vaudeville_centre_stage_early_1900s.aspx

IMAGES

Tivoli Theatre 1944, View of Stage from House

https://www.archives.gov.on.ca/en/explore/online/historytheatres/vaudeville_centre_stage_early_1900s.aspx

Vaudeville Theatres

https://www.archives.gov.on.ca/en/explore/online/historytheatres/vaudeville_centre_stage_early_1900s.aspx

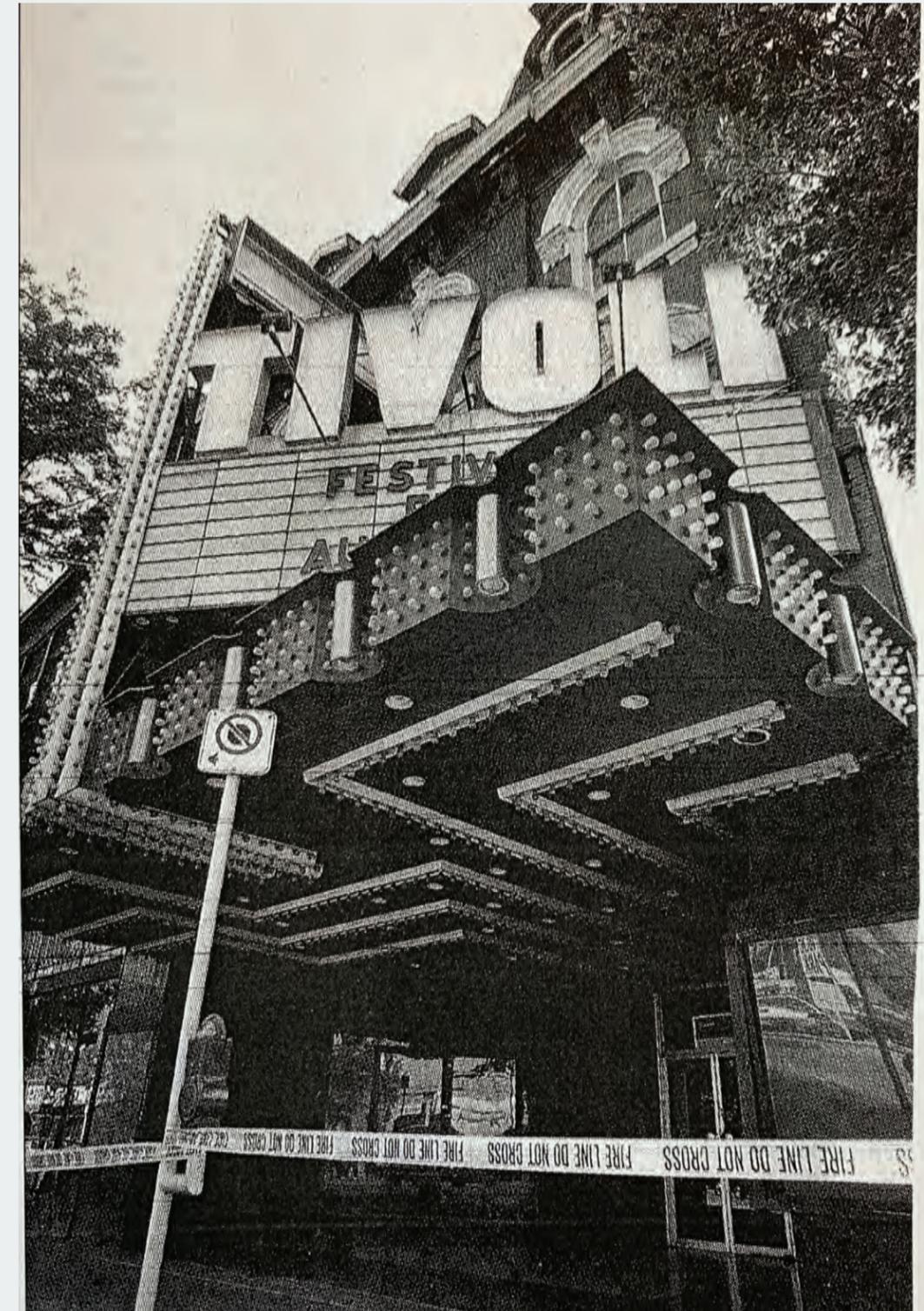
Tivoli Theater Images, Vintage Hamilton

<https://www.facebook.com/VintageHamilton/photos>

FIRE INSURANCE PLANS

<https://library.mcmaster.ca/collections/fire-insurance-plans>

The Lloyd Reeds Map Collection (LRMC) has fire insurance plans for the City of Hamilton dated 1898 & 1911 (online and out-of-copyright), and 1947 & 1964 (under copyright and only viewable in paper, hardcopy format in the LRMC).



Tivoli Theatre Marquee - Source: Hamilton Public Library

A.2 HERITAGE DESIGNATIONS - 108-112 JAMES ST. NORTH [1990]

RECEIVED IN THE OFFICE
SEP 20 1990
ARCHITECTURE AND PLANNING HERITAGE BRANCH
The Corporation of the City of Hamilton
Bill No. C-129

2.

ONTARIO HERITAGE FOUNDATION
SEP 19 1990
Nancy Smith

BY-LAW NO. 90- 255
To Designate:
LAND LOCATED AT MUNICIPAL NOS. 108-112 JAMES STREET NORTH
As Property of:
HISTORIC AND ARCHITECTURAL VALUE AND INTEREST

WHEREAS the Council of The Corporation of the City of Hamilton did give notice of its intention to designate the property mentioned in section 1 of this by-law in accordance with subsection 29(3) of the Ontario Heritage Act, R.S.O. 1980, Chapter 337;

AND WHEREAS no notice of objection was served on the City Clerk as required by subsection 29(5) of the said Act;

AND WHEREAS it is desired to designate the property mentioned in section 1 of this by-law in accordance with clause 29(1)(a) of the said Act.

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

- The property located at Municipal Nos. 108-112 James Street North and more particularly described in Schedule "A" hereto annexed and forming part of this by-law, is hereby designated as property of historic and architectural value and interest.
- The City Solicitor is hereby authorized and directed to cause a copy of this by-law, together with reasons for the designation set out in Schedule "B" hereto annexed and forming part of this by-law, to be registered against the property affected in the proper registry office.
- The City Clerk is hereby authorized and directed,
 - to cause a copy of this by-law, together with reasons for the designation, to be served on the owner and The Ontario Heritage Foundation by personal service or by registered mail;
 - to publish a notice of this by-law in a newspaper having general circulation in the Municipality of the City of Hamilton for three consecutive weeks.

PASSED this 28th day of August A.D. 1990.

[Signature]
Deputy City Clerk

[Signature]
Mayor

(1990) 12 R.P.D.C. 11, June 26

CERTIFIED A TRUE COPY
[Signature]
DEPUTY CITY CLERK

3.

2

Schedule "A"
To
By-law No. 90-255
Tivoli Theatre
108-112 James Street North, Hamilton, Ontario

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton, in The Regional Municipality of Hamilton-Wentworth, in the Province of Ontario, being composed of:

PART OF Lot Number 2 fronting on James Street, and Part of Lot Number 3 fronting on Hughson Street according to James Hughson Survey and being in the block bounded by James, Wilson, Hughson and Cannon Streets and which parcel of land is designated Parts 1, 2 and 3 according to a plan of record deposited in the Land Registry Office for the Registry Division of Wentworth as Number 62R-10419.

TOGETHER WITH the right to pass over, along, upon and to use as a right of way Part of Lot Number 2 fronting on Hughson Street and which right of way is designated Part 6 according to the said Plan 62R-10419 and,

TOGETHER WITH a right of way over Part of Lot Number 3 fronting on James Street and which right of way is designated Part 7 according to the said Plan 62R-10419,

SUBJECT TO the right of all others entitled thereto to pass over, along, upon and to use as a right of way Part of Lot Number 3 fronting on Hughson Street and which right of way is designated Part 3 according to the said Plan 62R-10419.

A.2 HERITAGE DESIGNATIONS - 108-112 JAMES ST. NORTH [1990]

Schedule "B"

to

By-law No. 90- 355

REASONS FOR DESIGNATION

Tivoli Theatre, 108 -112 James Street North

Built in 1875 as a carriage factory for J.P. Pronguey, the building at 108-112 James Street North has served primarily as a theatre since 1908. In 1924, the building was substantially enlarged by an auditorium added to the rear to accommodate the Tivoli Theatre, the name by which the building has since been known.

Context

With its architecturally impressive facade, dominant corner tower, and high visibility, the Tivoli Theatre is a major contributing component of the James North heritage streetscape. It also provides a dramatic visual terminus to the block extending from Cannon to Wilson Street. The adjacent site at the north-east corner of James and Wilson was, for many years, occupied by the Grand Opera House and Hotel, erected in 1880 and demolished respectively in 1960 and 1986.

Historical Significance

In the course of its history, the building at 108-112 James Street North has served many different uses: a carriage works (until 1901), a bowling alley on the second floor (1908-64), various restaurants and retail businesses at street level; and of particular significance, a succession of theatres: the Wonderland (1908), the Colonial (1909-12), and the Princess (1913-23), all located in the space which became the lobby of the Tivoli Theatre, and finally, the Tivoli itself.

The Tivoli has an important place in Hamilton's theatre history. The Wonderland was reputedly the City's first film theatre while the Tivoli, a vaudeville theatre and motion picture house, was the first theatre to introduce sound movies in the late 1920s. Of the numerous theatres built in Hamilton during the early 20th century, the Tivoli counted among the seven largest and grandest, the most resplendent of which were the Capitol and the Palace. All but the Lyric (now the Century) and the Tivoli have been demolished; and of these two only the Tivoli Theatre has retained any part of its original interior decor.

Architectural Significance**Exterior**

Clearly intended to make a bold statement of Pronguey's entrepreneurial ambitions, the original carriage factory was designed by Hamilton architect Albert H. Hills in the popular Second Empire style. Characteristic of this style are the steeply-pitched mansard roof with dormers, the bracketed cornices, and rich classical detailing. Noteworthy features of the Tivoli facade include the round-arched windows with two-over-two sash windows and ornate moulded surrounds, the gabled dormer windows, and the tall mansard-roofed tower. This convex-shaped tower displays narrow, paired arched dormers surmounted by circular windows and a bracketed cornice, originally crowned by ornamental iron cresting.

4

5.

The later Tivoli Theatre entrance originally featured an octagonal ticket office and an ornamental sign marquee, above which was a vertical "Tivoli" sign projecting at right angles to the street. Only the basic structure of the marquee, however, survived the major alterations made to the entrance in 1954.

Interior

The Tivoli Theatre was greatly admired for its sumptuously decorated "Italian Renaissance" interior, designed by Toronto architect B. Kingston Hall. While a significant proportion of the original decor was removed or covered in the course of renovations undertaken in 1943, 1947 and 1954 (when the most extensive remodelling occurred), the main architectural features of the auditorium are still largely intact. These include the proscenium, the ceiling with its elliptical design, the decorative cornice and frieze below, and along each side wall: a colonnade comprising five round arches sprung from coupled pilasters. The two arches on either side of the stage still contain the original bronze statues of Caesar Augustus and the goddess Minerva. At the base of each of the other eight arches are medallions depicting the four seasons.

Designated Features

Important to the preservation of the Tivoli Theatre are:

1. the original architectural features of the front (west) and side (south) facades, including the upper-storey arched windows, moulded surrounds, bracketed cornice, and slate-covered mansard roof with its dormers and corner tower.
2. the original architectural features of the lobby and auditorium, including the ceilings, proscenium, colonnades, statuary, and other decorative wall elements. Excluded from designation are the more recent additions, such as the floor covering, seating and stage curtain.

A.2 HERITAGE DESIGNATIONS - 111-113 HUGHSON ST. NORTH [2004]

Authority: Item 22, Planning and
Economic Development
Committee Report 04-014
(PD04210)
CM: August 12, 2004

Bill No. 256

City of Hamilton

BY-LAW NO. 04-256

To Designate:

LAND LOCATED AT 111-113 HUGHSON STREET NORTH, CITY OF HAMILTON

As Property of:

CULTURAL HERITAGE VALUE

WHEREAS the Council of the City of Hamilton did give notice of its intention to designate the property mentioned in section 1 of this by-law in accordance with subsection 29(3) of the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18;

AND WHEREAS no notice of objection was served on the City Clerk as required by subsection 29(5) of the said Act;

AND WHEREAS it is desired to designate the property mentioned in section 1 of this by-law in accordance with clause 29(6)(a) of the said Act.

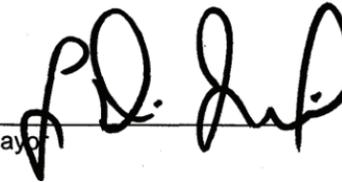
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The property located at 111-113 Hughson Street North, Hamilton, Ontario and more particularly described in Schedule "A" hereto annexed and forming part of this by-law, is hereby designated as property of cultural heritage value.
2. The Corporate Counsel is hereby authorized and directed to cause a copy of this by-law, together with reasons for the designation set out in Schedule "B" hereto annexed and forming part of this by-law, to be registered against the property affected in the proper registry office.

3. The City Clerk is hereby authorized and directed,

- (i) to cause a copy of this by-law, together with reasons for the designation, to be served on The Ontario Heritage Foundation by personal service or by registered mail;
- (ii) to publish a notice of this by-law once in a newspaper having general circulation in the City of Hamilton.

PASSED and enacted this 13th day October, 2004.


Mayor


Clerk

A.2 HERITAGE DESIGNATIONS - 111-113 HUGHSON ST. NORTH [2004]

Schedule "A"
To
By-Law No. 04-256
111-113 Hughson Street North
Hamilton, Ontario

Part of Lot 2, west side of Hughson Street between Gore and Cannon Streets, James Hughson Survey, being Parts 4 and 5 on Plan 62R-10419, City of Hamilton.

Subject to a right of way over Part 5, on Plan 62R-10419, and together with a right of way over part of Lot 3, west side of Hughson Street between Gore and Cannon Streets, James Hughson Survey, being Part 3 on Plan 62R-10419.

PIN (Property Identification Number) – PIN 17165-0034(R)

Schedule "B"
To By-law No. 04-256
Tivoli Theatre Auditorium
111-113 Hughson Street North, Hamilton

REASONS FOR DESIGNATION

Built in 1875 as a carriage factory for J.P. Pronguey, the Tivoli Theatre complex at 108-112 James Street North has served primarily as a theatre since 1908. In 1924, the complex was substantially enlarged by an auditorium added to the rear at 111-113 Hughson Street North, to accommodate the enlarged Tivoli Theatre, the name by which the complex has since been known.

Historical Significance

The Tivoli, a vaudeville theatre and motion picture house, was the first theatre to introduce sound movies in the late 1920s. Of the numerous theatres built in Hamilton during the early 20th century, the Tivoli counted among the seven largest and grandest, the most resplendent of which were the Capitol and the Palace. All but the Lyric (now the Century) and the Tivoli have been demolished; and of these two only the Tivoli has retained any part of its original interior decor.

Architectural SignificanceInterior:

The Tivoli Theatre was greatly admired for its sumptuously decorated "Italian Renaissance" interior, designed by Toronto architect, B. Kingston Hall. While a significant proportion of the original decor was removed or covered in the course of renovations undertaken in 1943, 1947 and 1954 (when the most extensive remodelling occurred), the main architectural features of the auditorium are still largely intact. These include the proscenium, the ceiling with its elliptical design, the decorative cornice and frieze below, and along each side wall: a colonnade comprising five round arches sprung from coupled pilasters. The two arches on either side of the stage still contain the original bronze statues of Caesar Augustus and the goddess Minerva. At the base of each of the other eight arches are medallions depicting the four seasons.

Designated Features

Important to the preservation of the Tivoli Theatre are the original architectural features of the auditorium, including the ceilings, proscenium, colonnades, statuary, and other decorative wall elements. Excluded from designation are the more recent additions, such as the floor covering, seating and stage curtain

A.2 HERITAGE DESIGNATIONS - 127 HUGHSON ST. NORTH

Authority: Item 5.8, City Council
Minutes 20-016 (PED20050)
CM: July 17, 2020
Ward: 2

Bill No. 217

CITY OF HAMILTON

BY-LAW NO. 20-217

**To Designate Land Located at 127 Hughson Street North, City of Hamilton as
Property of Cultural Heritage Value**

WHEREAS the Council of the City of Hamilton did give notice of its intention to designate the property mentioned in section 1 of this by-law in accordance with subsection 29(3) of the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18;

AND WHEREAS no notice of objection was served on the City Clerk as required by subsection 29(5) of the said Act;

AND WHEREAS it is desired to designate the property mentioned in section 1 of this by-law in accordance with clause 29(6) (a) of the said Act.

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

1. The property located at 127 Hughson Street North, Hamilton, Ontario and more particularly described in Schedule "A" hereto annexed and forming part of this by-law, is hereby designated as property of cultural heritage value.
2. The City Solicitor is hereby authorized and directed to cause a copy of this by-law, together with the statement of cultural heritage value or interest and description of heritage attributes set out in Schedule "B" hereto annexed and forming part of this by-law, to be registered against the property affected in the proper registry office.
3. The City Clerk is hereby authorized and directed,
 - a. to cause a copy of this by-law, together with reasons for the designation, to be served on The Ontario Heritage Trust by personal service or by registered mail;
 - b. to publish a notice of this by-law once in a newspaper having general circulation in the City of Hamilton.

PASSED this 14th day of October, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

Schedule "A"
To
By-law No. 20-217

127 Hughson Street North
Hamilton, Ontario

PIN: 17165-0153 (LT)

Legal Description:

Part Lot 5, James Hughson Survey (unregistered), east side of James Street; Part of Lot 5, James Hughson Survey (unregistered) west side of Hughson Street; Part Lot 6, James Hughson Survey (unregistered), City of Hamilton, being All of PIN 17165-0153 (LT)

A.2 HERITAGE DESIGNATIONS - 127 HUGHSON ST. NORTH

Schedule "B"
To
By-law No. 20-217

127 Hughson Street North
Hamilton, Ontario

**STATEMENT OF CULTURAL HERITAGE VALUE OR INTEREST AND
DESCRIPTION OF HERITAGE ATTRIBUTES**

Statement of Cultural Heritage Value or Interest

The property, municipally known as 127 Hughson Street North, Hamilton is a former industrial complex. The western section of the building was the original four storey factory built circa 1911 and was joined to the storefront located at 144 James Street North. The eastern section of the building was opened in 1929 and was known as 'Style Park'. The building is a vernacular industrial building that features Art Deco influences.

127 Hughson Street North is located on the west side of Hughson Street North, Hamilton. The property is east of James Street North, west of John Street North, north of Wilson Street, and south of Cannon Street East.

DESIGN / PHYSICAL VALUE

The property is a representative example of an early 20th century vernacular industrial building with art deco influences. This value is represented in the decorative façade of the 1929 east section of the building and displays brick pilasters, unique brickwork, stylized parapets and a decorative entrance and foyer area which are representative of an Art Deco style of this era. The massing and large window openings reinforce the industrial history of the building. The two stone 'F's' located in the parapets and the 'F' located in foyer flooring are a unique feature to the building and represent the Firth Brothers.

HISTORICAL / ASSOCIATIVE VALUE

The property has associative value in its direct association with Norman and John Firth. Norman Firth began a clothing business in Hamilton in 1909. Eventually joined by his brother John, the brothers incorporated as Firth Brothers Ltd. in 1918 with Norman acting as president. The Firth Brothers had a storefront, located at 144 James Street North, and the original section of the factory (west section) was located at the rear of the storefront. The brother's clothing operation was very successful and in 1929, they expanded the factory. The new building, known as 'Style Park' cost the company \$250,000, revitalizing the area and allowing the Firth Brothers to expand their operation vastly. Members of the Firth family owned and operated the business until 1974. The property has associative value as a contributor to the industrial heritage of Hamilton.

Page 1 of 2

CONTEXTUAL VALUE

The property has contextual value for its location in what may be considered Hamilton's first industrial neighbourhood. The Firth Brothers manufacturing operations began as a small-scale family run business and grew throughout the early 20th century. The property acts as a reminder of the neighbourhood's industrial past and reinforces the mixed use nature which has historically been associated with the area. The property is one of the largest industrial buildings in the immediate area and is important in defining and maintaining the industrial character of Hughson Street North.

Description of Heritage Attributes

The Cultural Heritage Value or interest of the property resides in the four storey east section of the structure, built in 1929.

Key heritage attributes associated with the split level foyer include:

- The use of marble, brass and wood;
- The marble and pebble tile Firth Brothers 'F' logo at the top of the stairs; and,
- The timber rafters with dentils and decorative supports.

Key heritage exterior attributes of the 1929 east section of the building associated with the façade include:

- Vernacular interpretation of Art Deco style architecture;
- Red brick construction and polychrome brick façade;
- Brick pilasters;
- The multi-panelled windows with operable openings together with the locations, configuration, size, scale, and shape of these window openings which reinforce the industrial character of the building;
- Brick work, including a double herringbone pattern and soldier courses with square-shaped stone insert;
- Decorative and symmetrical use of stone throughout the brickwork, including at the top and bottom of the brick pilasters;
- Flat roof with a pair of decorative parapets with centrally placed stone 'F's';
- Defined main entrance with stone lintel, pilasters, and dentils;
- Decorative brickwork above the main entrance; and,
- Large rectangular transom and sidelights openings found at the front door.

Page 2 of 2

A.3 AUTHOR QUALIFICATIONS

INTRODUCTION TO +VG ARCHITECTS

Community history and heritage are hallmark values of The Ventin Group (+VG Architects). Since 1972 the firm has provided services for cultural heritage resources including condition and impact assessments, management plans, feasibility studies and restoration strategies, as well as full architectural services in design, working drawings, project management, cost estimating, and contract administration. The firm has successfully completed heritage projects for IO/Ontario Realty Corporation, Public Works and Government Services Canada, the City of Toronto, the Archdiocese of Toronto, Ontario Heritage Trust, Niagara Parks Commission and universities, school boards and municipalities across the province.

+VG Architects maintain currency with developments in heritage building technology and construction techniques through active participation in organizations like the Canadian Association of Heritage Professionals (CAHP).

+VG Architects have earned 54 Awards of Excellence specifically for heritage project design including National Historic Sites as well as provincially and locally designated sites. The range of these heritage building types includes Civic Centres, Court Houses, Public Libraries and Archives, Museums, Theatres, Academic Buildings, Churches and Residential conversions.

+VG APPROACH TO CONSERVATION OF CULTURAL HERITAGE RESOURCES

Cultural heritage resources are part of our collective memory and play an important role in understanding our past. They are also significant contributors to our present and future use through various means of conservation such as restoration, rehabilitation and adaptive re-use.

In approaching each built cultural resource, +VG Architects are guided by international standards of conservation. These include the International Charter for the Conservation and Restoration of Monuments and Sites (ICOMOS): The Venice Charter (1964) and subsequent specific publications such as The Burra Charter for the Conservation of Places of Cultural Significance (1981, ICOMOS Australia) and The Appleton Charter for the Protection and Enhancement of the Built Environment (1983, ICOMOS Canada).

At the National level, Parks Canada has produced "Standards and Guidelines for the Conservation of Historic Places in Canada" (2003, second edition 2010), a benchmark for the heritage conservation decision-making process by understanding the historic place, planning for its conservation and intervening through projects or maintenance.

Provincially, the Ministry of Citizenship and Multiculturalism (Previously Ministry of Tourism, Culture and Sport) has developed a framework for decisions concerning good practice in architectural conservation endorsed by Ontario Heritage Trust. Known as "Eight Guiding Principles in the Conservation of Historic Properties", they underscore respect for documentary evidence, location, materials and history; reversability of alterations, and the importance of maintenance.

In 2017 MCM created Standards and Guidelines for Conservation of Provincial Heritage Properties - Information Bulletin 2. This document has guided the development of this Strategic Conservation Plan.

+VG personnel includes members of Canadian Association of Heritage Professionals (CAHP):

- Paul Sapounzi, Managing Partner, BES BArch, OAA, NSAA, FRAIC, CAHP
- Peter Berton, Principal, OAA, CAHP
- Derek Quilliam, Project Manager, MRAI, APT, CAHP, DIP Arch B.Arch Sc.
- Pietro Frenguelli, Project Manager, B.Arch, CAHP
- Kevin Church, Architect/ Partner, B. Arch., OAA, RAIC, CAHP
- David Ecclestone, Partner, B.E.S., M. Arch., O.A.A., M.R.A.I.C., CAHP
- Terry White, Architect/ Partner Emeriti, B.Arch., OAA., MRAIC, CAHP
- Deb Westman, Project Manager, BES, B.Arch, OAA, CAHP

SAMPLING OF RECENT HERITAGE ASSESSMENTS, CONSERVATION PLANS + CONDITIONS REPORTS

HERITAGE IMPACT ASSESSMENTS

- Ancaster Memorial School, Ancaster
- Auchmar Estate Coach House, Hamilton
- Barber Paper Mills (Project 2008), Georgetown
- Barber Paper Mills (Project 2010), Georgetown
- Cayuga Courthouse, Cayuga
- Erchless Estate Coach House, Oakville
- Generating Stations Niagara Falls
- Guelph Civic Museum, Guelph
- Implications of Re-Zoning on Arland Farms, Oakville
- Jordan Historical Museum, Jordan
- Les Soeurs de la Visitation Convent, Ottawa
- O'Connor Street Condominium, Ottawa

BUILDING CONDITION ASSESSMENTS

- 108-116 Sparks Street, historic building condition assessment
Ottawa, Ontario
- Bridgepoint Health Centre (Old Don Jail) adaptive re-use
Toronto, Ontario (c. 1883)
- Colborne Street Heritage Record, 41 properties Brantford,
Ontario
- Generating Stations Niagara Falls
- Leamington Train Station, building condition assessment
Leamington, Ontario
- Milton Town Hall West + Hugh Foster Hall Restoration, Milton
- Milton Heritage Railway Station, Milton

CONSERVATION PLANS

- CASO Railway Station, adaptive re-use, restoration and
heritage report, St. Thomas
- Generating Stations Niagara Falls
- Orillia Opera House, Orillia
- Queen Victoria Park Cultural Heritage Landscape, Niagara Falls
- Queen Victoria Park Generating Stations, Niagara Falls
- Toronto Power Generating Station, Niagara Falls

PAUL SAPOUNZI

B.E.S., B.Arch., OAA, MRAIC, AIA, CAHP
 Partner-in-Charge - Design, Finance & Business Development

PROFESSIONAL EXPERIENCE

- 1990 Partner-In-Charge
Design, Finance & Business Development
+VG Architects
- 1989 Project Designer, Joe Somfay Architects Ltd.
Waterloo
- 1987 Project Designer, A. J. Diamond and Partners
Toronto
- 1986 Designer, Barton Myers Architect Ltd.
Toronto
- 1985 Designer, Design Assistant
Adamson Associates, Toronto

EDUCATION

- 1987 Bachelor of Architecture
University of Waterloo
- 1985 Bachelor of Environmental Studies
University of Waterloo
- 2008 Adjunct Professor
Project & Facility Management
Conestoga College, Kitchener
- 1995 Present Visiting Critic, University of Waterloo
School of Architecture, Cambridge

PROFESSIONAL AFFILIATIONS

Ontario Association of Architects
 Royal Architectural Institute of Canada
 Canadian Association of Heritage Professionals (CAHP)

RELEVANT PROJECT EXPERIENCE

- > Huntsville Town Hall & Algonquin Theatre
Huntsville, Ontario
- > Hamilton Civic Centre
Hamilton, Ontario
- > Milton Civic Centre
Milton, Ontario
- > Bridgepoint Hospital
(Formerly the Don Jail)
Toronto, Ontario
- > Welland Courthouse
Welland, Ontario
- > Cambridge Centre-for-the-Arts
Cambridge, Ontario
- > Castle Kilbride Museum, National Historic Site
Baden, Ontario
- > Guelph Civic Museum (Loretto Convent)
National Historic Site, Guelph
- > Wellington County Museum, National Historic Site
Fergus, Ontario (c. 1877)
- > University of Western Ontario
Law Library
Childcare Centre
London, Ontario
- > Bridgepoint Hospital
(Formerly the Don Jail)
Toronto, Ontario
- > Welland Courthouse
Welland, Ontario
- > Wellington County POA Courthouse
Guelph, Ontario
- > Wellington County Social Services, HQ
Guelph, Ontario
- > All Saints Secondary School
Whitby, Ontario
- > Clarington Central Secondary School
Bowmanville, Ontario
- > Huron Heights Secondary School
Kitchener, Ontario
- > Confederation College
Satellite Campuses, Fort Frances, St. Thomas, Woodstock
Learning Resources Centre, School of Nursing
- > University of Western Ontario
Faculty of Law Building, Child Care Centre, Student
Residence
London, Ontario

DEB WESTMAN

B.E.S., B. Arch. OAA, CAHP- Senior Associate

As an Architect with +VG, Deb has been involved with all aspects of architectural project design and implementation with specific focus on cultural heritage projects. She facilitates and develops impact and condition assessments, conservation strategies and feasibility studies.

As a member and current newsletter editor of the Architectural Conservancy of Ontario (North Waterloo Branch), Deb is responsible for highlighting heritage news and events through coordination, graphic design and publication of the bi-monthly newsletter. She also served previously as an architectural representative for Heritage Kitchener (LACAC).

PROFESSIONAL EXPERIENCE

- 2006 | Associate, Project Manager - +VG Architects
Kitchener/ Cambridge/ Brantford
- 1993 | 06 Design Consultant - Deb Westman Consultant
Kitchener
- 2002 | 04 Project Manager (Exhibits) - Waterloo Region
Children's Museum, Kitchener
- 2001 Project Manager - Nicholas Hill Architect,
Guelph
- 1989 | 93 Project Designer/ Coordinator - Snider Reichard
March Architects, Waterloo

EDUCATION

- 1989 Bachelor of Architecture, University of Waterloo
- 1986 Bachelor of Environmental Studies (Architecture)
University of Waterloo
- recent studies in Cultural Heritage Resources
University of Victoria

PROFESSIONAL AFFILIATIONS/ MEMBERSHIPS

Architect, Ontario Association of Architects
 Building Specialist, CAHP (Canadian Association of Heritage Professionals)
 Member, ACO NWR (Architectural Conservancy of Ontario North Waterloo Region)
 Member, Grand Valley Society of Architects

+VG PROJECT EXPERIENCE

Heritage Assessments, Studies + Projects

- > Power Plants and Queen Victoria Park CHL Strategic Conservation Plan, Niagara Falls
- > Jordan Historical Museum, Jordan Ontario
- > Generating Stations Adaptive Reuse Studies, Niagara Falls
- > Ontario Power Generating Station, The Fallsview & Thompson Point Cultural Heritage Assessment, Niagara Falls
- > Jordan Historical Museum Design Feasibility Study, Jordan
- > Cultural Heritage Evaluation Report & Heritage Impact Assessment for various sites, Niagara Falls
- > Victoria Park Heritage Guidelines Review for Class B Properties, London
- > Ancaster Memorial School Heritage Impact Assessment, Ancaster
- > Paris Old Town Hall Conservation Strategy, Paris
- > Implications of Re-Zoning on Arland Farms, Heritage Impact Assessment, Oakville
- > Guelph Civic Museum, Adaptive Re-use & Restoration at Loretto Convent, Guelph
- > Cayuga Courthouse, Study - Stone Wall Restoration
Cayuga, Ontario
- > Auchmar Estate Coach House, Adaptive Re-use & Restoration, Hamilton
- > Visitation Convent, Cultural Heritage Impact Assessment (Rezoning), Ottawa
- > Barber Paper Mill, Cultural Heritage Impact Assessment, Georgetown
- > Wilfrid Laurier University, Brantford Campus Expansion, Adaptive Re-use of Historic Moody's Tavern, Brantford
- > Generating Stations Technical Assessments, Gap Analysis and Rehabilitation Study (3 Stations), Niagara Falls
- > Erchless Estate Museum, Condition Assessment & Expansion Feasibility Audit, Oakville

Heritage Presentations, Exhibitions, Affiliations

- > ACO North Waterloo Region, Branch editor -- current
- > Ontario Museum Association Conference/ AGM, presentation of Guelph Civic Museum
- > Conservation Exhibition, Guelph's Favourite Buildings - Guelph Civic Museum
- > Building Conservation presentation for Frank Cowan Insurance
- > Past member, Heritage Kitchener (formerly LACAC)

A.3 AUTHOR QUALIFICATIONS

NATIONAL HISTORIC SITES

- Annandale House Museum, Tillsonburg (c. 1883)
- Canada Armoury, Simcoe (c. 1912)
- Birkbeck Building (Ontario Heritage Trust Centre) Toronto (c. 1884)
- Castle Kilbride Museum, Township of Wilmot (c. 1877)
- County Jail and Governor's Residence, Guelph (c. 1844)
- County of Wellington Building, Guelph (c. 1868)
- Dominion Public Building, Guelph (c. 1936)
- Dufferin County Court House, Orangeville (c. 1880)
- Erchless Estate, Oakville (c. 1835)
- Fergus District High School, Township of Centre Wellington (c. 1927)
- Fergus Public Library, Township of Centre Wellington (c. 1911)
- First Delta Baptist Church, Cambridge (c. 1881)
- Frontenac County Courthouse, Kingston (c. 1855)
- Fryfogel's Tavern, Shakespeare (c. 1855)
- Galt Fire Department Hall, Cambridge (c. 1898)
- Government of Canada Building, St. Catharines (c. 1956)
- Guelph Civic Museum, Guelph (c. 1883)
- London Mechanics Institute Building, London (c. 1876)
- London Normal School, London (c. 1898)
- Mackenzie Hall (Former Essex County Court House) Windsor (c. 1855)
- Milton Court House, Milton (c. 1855)
- Napanee Town Hall, Napanee (c. 1864)
- Old Toronto City Hall / York County Court House, Toronto (c. 1899)
- Old Town Hall, Newmarket (c. 1882)
- Ontario Legislative Assembly Building, Queen's Park (c. 1893)
- Osgoode Hall, Toronto (c. 1829)
- R.C. Harris Water Treatment Plant (National Historic Engineering Site) Toronto (c. 1941)
- St. Lawrence Hall, Toronto (c. 1850)
- St. Thomas City Hall, St. Thomas (c. 1898)
- Toronto Power Generating Station, Niagara Falls (c. 1906)
- Union Station, Toronto (c. 1914/1927)
- Waterloo County Jail and Governor's House, Kitchener (c. 1853/1878)
- Wellington County House of Industry and Refuge, Aboyne (c. 1877)

PROVINCIAL + MUNICIPAL HISTORIC SITES

CIVIC CENTRES

- Ancaster Town Hall, Ancaster (c. 1871)
- County of Lennox & Addington Memorial Centre, Napanee (c. 1864)
- County of Victoria Civic Centre, Lindsay (c. 1861)
- County of Wellington Civic Centre, Guelph (c. 1844, 1904)
- Exeter Town Hall, Exeter (c. 1855)
- Hanover Civic Centre (c. 1911)
- Old City Hall, Toronto (c. 1899)
- Ontario Legislative Building, Queen's Park (c. 1893)
- Oxford County Board of Health Administration Offices, Woodstock (c. 1854)
- Milton Town Hall (c. 1854)
- Orangeville Town Hall (c. 1875)
- Shelburne Town Hall (c. 1873)
- Simcoe Town Hall (c. 1846, 1863)
- St. Thomas City Hall (c. 1898)
- Strathroy Town Hall (c. 1928)

COURT HOUSES

- Brantford Courthouse (c. 1851)
- Brockville Courthouse (c. 1842)
- Cayuga Courthouse (c. 1853)
- Cobourg Courthouse (c. 1831)
- Dufferin County Courthouse (c. 1888)
- Elgin County Courthouse, St. Thomas (c. 1853, 1898)
- Essex County Courthouse, Windsor (c. 1855)
- Haldimand County Courthouse, Cayuga (c. 1857)
- Napanee Courthouse (c. 1864)
- Norfolk County Courthouse, Simcoe (c. 1863)
- Osgoode Hall, North Wing Renovations, Toronto (c. 1860+)
- Peel County Courthouse, Brampton (c. 1867)
- Regional Municipality of Waterloo P.O.A. Courthouse, Kitchener (c. 1853)
- Welland Courthouse, Welland (c. 1856)
- Wellington County Courthouse, Guelph (c. 1844)

PUBLIC LIBRARIES & ARCHIVES

- Aylmer Public Library, Aylmer (c. 1913)
- Clinton Public Library, Clinton (c. 1903)
- Hanover Carnegie Public Library, Hanover (c. 1863)
- Simcoe Public Library, Simcoe (c. 1863)
- Stratford Carnegie Public Library, Stratford (c. 1906)
- Walkerton Carnegie Public Library, Walkerton (c. 1913)
- Wellington County Library, Fergus (c. 1911)
- Wellington County Archives, Fergus (c. 1877)

MUSEUMS

- Apps Mill, Paris (c. 1841)
- Backus Heritage Museum, Port Rowan (Backus Mill c. 1800)
- Dufferin County Museum, Shelburne (new, with historic components)
- Eva Brook Donly Museum, Simcoe (c. 1838)
- Fryfogel Inn, Shakespeare (c. 1855)
- Ireland House Museum, Burlington (c. 1830)
- Lawrence House Museum, Sarnia, (c. 1892)
- Lock 3 Historical Museum & Interpretative Centre, St. Catharines (new, historic components)
- Lynnwood Arts Centre, Simcoe (c. 1851)
- Mackenzie Hall Gallery, Windsor (c. 1855)
- Meaford Museum (c. 1961)
- Niagara-On-The-Lake Pumphouse Museum & Arts Center (c. 1891)
- Peel County Museum, Brampton (c. 1867)

THEATRES

- Algonquin Theatre, Huntsville (Huntsville Civic Centre c. 1926)
- Aylmer Opera Hall (c. 1874)
- Cambridge Performing Arts Theatre (c. 1881)
- Meaford Hall Theatre (c. 1908)
- Orangeville Opera Hall (c. 1875)
- Port Dover Lighthouse Theatre (c. 1904)
- Shelburne Opera Hall (c. 1883)

ACADEMIC BUILDINGS

- Central High School, Detroit (c. 1926)
- Mechanics Institute, Simcoe (c. 1874-75)
- Queen's University, School of Business, Kingston (c. 1890)
- University of Western Ontario, Law Library, London (c. 1943)
- W. Ross MacDonald School, Brantford (c. 1872) Churches
- St. John's Anglican Church, Port Rowan (c. 1860)
- St. John's Church, Ancaster (c. 1868)
- St. Michael's Cathedral, Toronto (c. 1845)
- St. Peter's Basilica, London (c. 1880)

MULTI-UNIT & MIXED-USE RESIDENTIAL BUILDINGS

- Alexandra School Live / Work Residence, Waterloo (c. 1908)
- Armagh House, Mississauga (c. 1901)
- Kitchener Housing, Forsyth Factory Development Study, Kitchener (c. 1900-1937)
- Kitchener Housing, Gaol Development Study, Kitchener (c. 1853)
- Sir Adam Beck Residence, London (c. 1887)
- 36 Water Street South, Mixed-use Development, Cambridge (c. 1843)
- 18 Main Street East, Mixed-use Development, Cambridge (c. 1846)

PUBLIC BUILDINGS

- Milton Railway Station, Milton (c. 1900)
- Milton Registry Office, Milton (c. 1902)
- Old Fire Hall, Simcoe (c. 1891)
- Old Toronto (Don) Jail, Toronto (c. 1863)
- Post Office & Customs House, Simcoe (c. 1898)
- Prince's Gate Restoration, Exhibition Place, Toronto (c. 1927)

A.4 115 HUGHSON ST. N. CHIA



Exterior view of the front facade [Source: +VG Architects]

The side elevations contain one second level window on the north façade, and three windows on each level on the south façade. Additions to the building include shed-roof dormers on the north and south roof slopes, and a one-storey concrete shed on the rear. Refer to page 8 for register information.



View of the west elevation [Source: +VG Architects]



View showing the rear garage [Source: +VG Architects]

1.0 INTRODUCTION TO THE PROJECT

Location Plan: Refer to page 7 for overall location map and context.
 Owner contact information is provided in Section 1.1 [Page 5]

Description of Property:

The urban site is a rectangular residential lot with a 2½-storey single-detached brick house. The historic building dating to the turn of the century is Queen Anne in style featuring a projecting 3-storey bay with gable roof top, off-center entrance and elaborate brick detailing and stone lug sills on the front (east) facade. The covered entrance porch is not original to the building. Most east windows are modified except for the first and second level segmental arched windows in the bay which retain original leaded glass work.

Context:

The property frontage is on Hughson Street North, situated between the Tivoli Theatre property (111-113 Hughson St N) on the south and west and a parking lot (117 Hughson St N) on the north side. Hughson St N on this block is comprised of commercial, old factory buildings, parking lots and Trinity Lutheran Church. The c. 1900 brick house is set back approximately 6m further from the street than the adjacent historic buildings -- Tivoli Auditorium (1924), the Son's of England Benevolent Society Hall c.1910 (121 Hughson St N) and the 4½-storey brick clothing factory building c. 1929 (127 Hughson St N).

The site is located at the edge of the James Street North Cultural Heritage Landscape Inventory which encompasses most properties along James Street North from Wood Street on the north, extending near King William Street on the south end. The CHL zone is comprised of Designated Properties, Registered (Non-Designated) Properties, Inventoried Properties Heritage Inventory Listed (non-designated) Properties and

The property is now part of the larger project site including 108 James Street North and 111 Hughson Street North.

For additional information and images refer to Section 1.2.2 [Pages 7-14]

A.4 115 HUGHSON ST. N. CHIA

2.0 BACKGROUND RESEARCH & ANALYSIS

Cultural Heritage Value

Listed on the City's Heritage Register in 2014, the building is described as having design value due to its architectural features, and contextual value as the only remaining 19th-century house on the west side of Hughson Street N between Wilson and Cannon streets.

The design value is noted in the heritage register as:

115 Hughson Street North is a single-detached brick house constructed between 1899 and 1910. The two-and-a-half storey building has a medium hip roof with projecting eaves, a projecting front gable, shed-roof dormers to the north and south and a partially-exposed stone foundation. There are two single-stack brick chimneys, one on the east end of the south side and the other in the rear. The brick building is comprised of segmental windows with brick voussoirs and stone lug sills. The front façade has a projecting three-storey bay with transoms in the first and second-storey segmental windows, as well as decorative brick work.

Development History:

Fire Insurance Plan maps document changes over time from 1898 when only 117 Hughson St N existed. By 1911, 115 and 119 Hughson St N were constructed on each side of 117. The 1947 map shows the Tivoli auditorium which had been added to the main theatre in 1924. By 1964, 119 Hughson St N no longer existed and a parking lot exists there today.

The property has been tied to the Tivoli Theatre property since 2007. For ownership and area development information refer to Section 5.1, page 47.

+VG attended site visits on June 5th, 2024 and August 21, 2024 to review the building exterior and surrounding area. The owner has provided recent photos of the interior which is currently occupied by tenants and unavailable for viewing.

Cultural Heritage of Adjacent Properties

Heritage values of adjacent properties are included in the Tivoli Theatre CHIA, Section 3.

3.0 STATEMENT OF SIGNIFICANCE

The building is currently on the City's Heritage Register with the heritage values as provided in the Registered (Non-Designated) Property description on page 8.

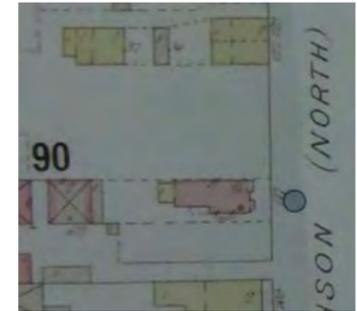
4.0 DESCRIPTION OF PROPOSED DEVELOPMENT

Written and visual descriptions of the proposed adjacent development are provided in Section 4 of the Tivoli Theatre CHIA.

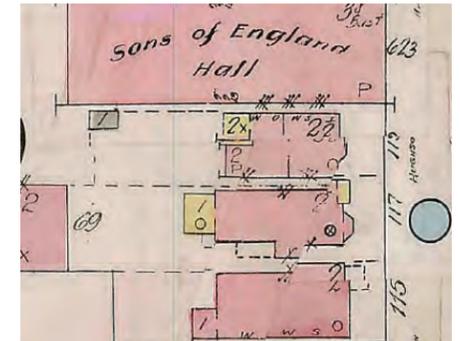


View of the front facade bay with brick detailing and original upper windows. [Source: +VG Architects]

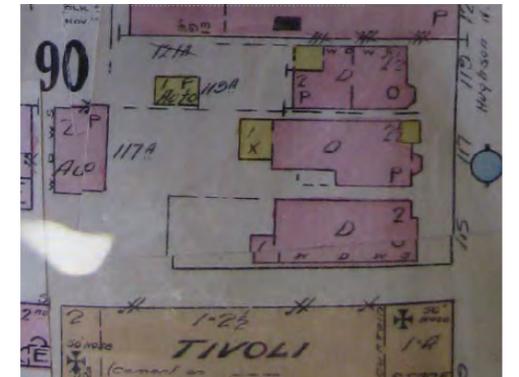
1898 Fire Insurance Plan



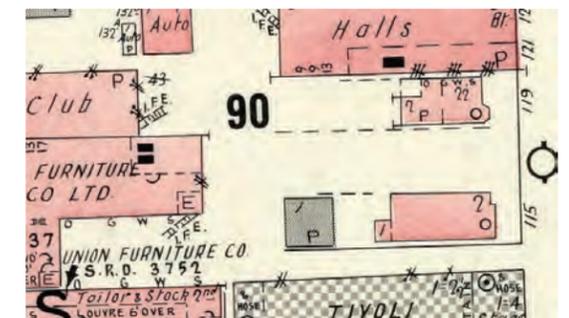
1911 Fire Insurance Plan



1947 Fire Insurance Plan



1964 Fire Insurance Plan



City of Hamilton Fire Insurance Plans: 1898, 1911, 1947, 1964 (Courtesy of the McMaster Maps Library and the Hamilton Public Library)

5.0 IMPACT OF PROPOSED DEVELOPMENT

Like the Tivoli Theatre Auditorium, the new development proposes to demolish the buildings on 115 Hughson St N. While an isolated remnant of residential homes in the area, there is loss of historic fabric. The exterior design with brick detailing and ornate features belongs with the intense building period of the area.

6.0 MITIGATION MEASURES

As required by the City of Hamilton for a listed (Registered, Non-Designated) property, the owner will provide 60 days notice to the City with intent to demolish the building at 115 Hughson St N as per Section 27(9) of the Ontario heritage Act. During the 60-day interim period, it is anticipated that the City will provide feedback for discussion on mitigation measures and any other requirements.

7.0 CONSERVATION STRATEGY

7.1 Conservation Implementation & Monitoring Plan, Recommendations

To safeguard character-defining elements of a cultural resource, heritage conservation identifies actions or processes required as included in the table below.

Conservation Strategy	Estimated Timeline	Monitoring of Activities	Approval Authority
Documentation	2024	Owner to undertake documentation of existing conditions and heritage features of the building and property.	City of Hamilton
Interim Protection Measures	Ongoing until time of permit approvals.	- Owner to maintain protection measures until time of permit approvals. - Salvage building features for reuse.	Not Required
Managing Change	Ongoing to Construction Completion	- Develop CHIA	City of Hamilton



View of Level 3 under roof space with gable window, wood trims and wood flooring. [Source: Aventus]



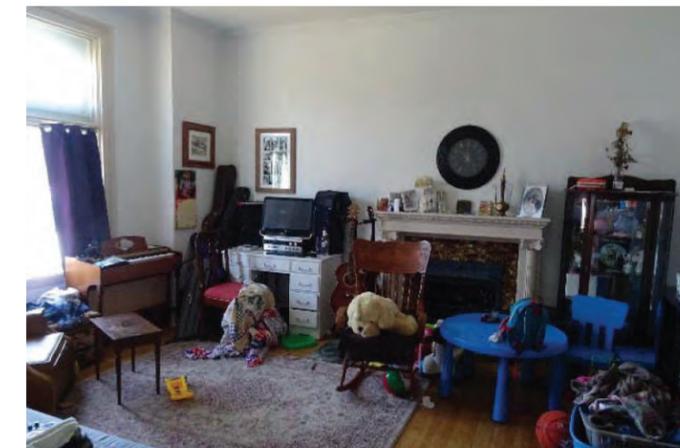
View of Level 3 under roof space with attic access door, wood trims and wood flooring. [Source: Aventus]



View of Level 2 living space with historic glass transom window, fire place and wood flooring. [Source: Aventus]



View of Level 2 bedroom with historic wood trim, baseboards and wood flooring. [Source: Aventus]



View of Level 1 living space with historic glass transom window, fire place and wood flooring. [Source: Aventus]

A.5 REPORTS

- A.5.1 References/ Citations
- A.5.2 Building Condition Assessment
- A.5.3 Designated Substances And Hazardous Building Materials Assessment [108 James Street North, Hamilton]
- A.5.4 Hazardous Building Materials Assessment [108 James Street North, Hamilton]
- A.5.5 Heritage Plaster Work at Tivoli Theatre

Tivoli Condo Development 108 James Street North, Hamilton Building Condition Assessment February 2024



Prepared by:



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Project File No. 24044

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APPENDICES

Appendix A: Limitations

EXECUTIVE SUMMARY

The Structural Building Condition Assessment (BCA) project for Aventus Development Corporation for the Tivoli Condo Development at 108 James Street North in Hamilton was approved under Purchase Order No. 3524063 issued on February 26, 2024.

This structural building condition assessment is for a floor based visual inspection of the building with no destructive testing.

The original Tivoli facility was constructed circa 1875 as a factory and converted to a theatre in 1908. The original Tivoli Theatre was located on James Street – tragically collapsed from disrepair. A new (current structure) theatre was built on the current location.

The site is located just north of Wilson Street and extends on the west from James Street North to Hughson Street on the east. The building consists of a 2-storey building, single level basement, re-constructed in 1924.

The primary configuration consists of the Stage House and Audience Chamber with supporting loft for projection/lighting control and basement (assumed for service space).

The majority of the earlier theatre on this site that fronted directly onto James Street has been demolished in 2004. The building has not been operational for many years and has been closed and unheated.

General Building Configuration

- Stage House is located at the east end of the property.
 - Constructed higher than the Audience Chamber in order to contain space for hanging scenery,
 - Walls constructed of common brick masonry from ground level to the roof,
 - Below stage level – mainly reinforced concrete construction,
 - Common to the stage house and audience chamber is the proscenium wall,
 - Single storey basement under stage portion; construction is generally reinforced concrete,
 - Stage floor is framed, at least in some sections, with steel beams and wood planking.
- Audience Chamber
 - Framed with a series of clear span steel pitched trusses spanning the width of the auditorium,
 - Total of 3 distinct trusses,
 - Roof panels between trusses is gypsum base planks, likely Syporex or similar product,
 - Walls are common clay brick on the exterior,
 - Clay tile on the interior wall sides,
 - Piers are constructed around the steel columns along the north and south walls,

- Pairs of columns support steel roof trusses above and extend down to bear on the top of the reinforced concrete wall that extends around the base of the auditorium chamber.
- Crush Space
 - Crush space located west of the audience chamber at the rear of the audience and on the second floor.

Foundations

- It is assumed that the building is founded on strip and spread footing, founded on clay tile (not visible),
- The footings were not visible at the time of our inspection. No signs of settlement were visible and as such the footings are assumed to be working as designed.

A. General Description of the Facility



North Elevation



South Elevation (original)



East Elevation



West Elevation

INFORMATION	
Location:	108 James Street North, Hamilton, Ontario
Facility Type:	Previous factory and then theatre
Construction Date:	1875, rebuilt in 1924
Additions:	Unknown
No. of Storeys:	2 plus part basement
Ancillary Features:	N/A
General Description:	Poured concrete foundations with brick walls and a mixture of wood and steel framing. Some walls are clay tile (speed tile)
Date of Inspection:	February 29, 2024
Weather, day of inspection	Sunny, 1 degree Celsius
Inspector:	Kalos Engineering: Hank Huitema (Structural) Harjot Dev (Structural) Jason Smith (Rise Real Estate)

B. Observations

1. Exterior

The exterior of the building is primarily brick. Interior of walls (in main hall) exhibits clay tile, commonly known as speed tile. Some areas have been parged over, painted or infilled with plywood. The exterior review was completed as a visual inspection from grade.

Area/Item Reviewed	Photograph
<p>Item 1.1 East Elevation</p> <p><u>Observation</u> East elevation of the building consists of brick. Brick has been parged over approximately 3m above grade. The brick is in fair condition. Some deterioration and staining of brick around existing window/door openings.</p>	
<p>Item 1.2 North Elevation</p> <p><u>Observation</u> North elevation of the building consists of brick and a parge coat approximately 3m above grade. Brick wall is in poor condition.</p> <p>Some deterioration of brick and cracking was observed.</p>	
<p>Item 1.3 North Elevation</p> <p><u>Observation</u> Significant mortar loss at brick joints throughout wall. Significant staining throughout wall.</p> 	

Area/Item Reviewed	Photograph
<p>Item 1.4 West Elevation</p> <p><u>Observation</u></p> <p>Brick wall with plywood used to infill majority of the wall. Wall is in poor condition.</p> 	
<p>Item 1.5 West Elevation</p> <p><u>Observation</u></p> <p>Brick is loose, crumbling and missing in several areas. Large portion of wall is missing in the south west corner. Area of wall missing in north west corner.</p>  	  

Area/Item Reviewed	Photograph
<p>Item 1.6 West Elevation</p> <p><u>Observation</u> Concrete steps deteriorating.</p>	
<p>Following the structural review several photos were shared by the building owner. Items from photos listed below.</p>	
<p>Item 1.7 Roof</p> <p><u>Observation</u></p> <p>Roof was not reviewed as part of this inspection. Photos of the roof were shared by owner. Roof is in poor condition, vegetation growth on roof suggest moisture problems.</p>	

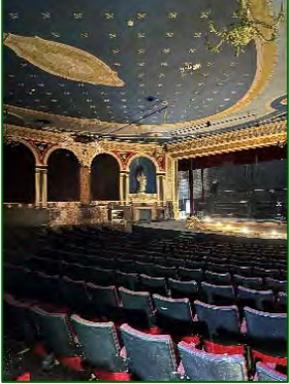
2. Interior

The interior structure of the building consists of a mix of poured concrete walls and masonry block foundation walls in the basement. The floor structure for the main auditorium space is poured concrete on a mix of steel and wood framing. The interior framing consists of clay tile walls, wood framing, steel framing and steel trusses. The roof deck consists of some wood and gypsum based (Siporex) roof deck panels.

The building is unheated and unoccupied.

The interior review was a visual inspection of components that could be viewed on site from floor levels.

Area/Item Reviewed	Photograph
<p>Item 2.1 Main Auditorium Walls</p> <p><u>Observation</u> Brick and clay tile interior walls covered with plaster finish in most areas. Plaster is in poor condition; where visible, clay tiles and bricks are in poor condition.</p>	

Area/Item Reviewed	Photograph
<p>Item 2.2 Back of Auditorium</p> <p><u>Observation</u> Shoring installed at back of auditorium to support second floor and roof structure above.</p> 	
<p>Item 2.3 Floor Structure</p> <p><u>Observation</u> Clay tile ceiling at shoring locations.</p>	
<p>Item 2.4 Walls</p> <p><u>Observation</u> Moisture damage to wall.</p>	

Area/Item Reviewed	Photograph
<p>Item 2.5 Roof Structure</p> <p><u>Observation</u> Shoring up to ceiling of roof structure. Ceiling has significant moisture damage and is on the verge of collapse. Shoring is installed but may not prevent collapse of moisture ridden gypsum panels.</p>	
<p>Item 2.6 Walls</p> <p><u>Observation</u> Deterioration to clay tile and brick at inside of walls. Walls are in poor condition where viewed.</p> <p>Considerable cracking of brick walls was observed.</p>	 
<p>Item 2.7 Roof Framing</p> <p><u>Observation</u> Siporex roof structure with damage at penetrations, several areas are stained suggesting moisture damage. Siporex roof structure loses significant structural integrity when wet.</p> <p><u>Action</u> Shore areas of damaged Siporex immediately.</p>	

Area/Item Reviewed	Photograph
<p>Item 2.8 Walls</p> <p><u>Observation</u> Steel framing supporting brick wall above. Limited visibility. Previous report states steel trusses and channels used for roof framing.</p>	
<p>Item 2.9 Basement</p> <p><u>Observation</u> Wood framing supporting ground floor visible in basement. Wood beams are in fair condition.</p>	
<p>Item 2.10 Basement</p> <p><u>Observation</u> Steel beams supporting second floor visible in basement. Beams are painted and condition could not be confirmed.</p>	 
<p>Item 2.11 Basement</p> <p><u>Observation</u> Water ingress to basement some flooding of rooms in the basement.</p>	<p>No Photo</p>

Area/Item Reviewed	Photograph
<p>Following the structural review, several photos were shared by the building owner. Items from photos are listed below</p>	
<p>Item 2.12 Siporex at Roof</p> <p><u>Observation</u></p> <p>Siporex roof collapsing in several areas from water damage.</p> 	 
<p>Item 2.13 Steel Framing at Roof</p> <p><u>Observation</u></p> <p>Steel roof trusses with wood infill. Wood appears to be stained suggesting water damage.</p>	 

C. Summary of Findings

Structural

Kalos Engineering Inc. completed a Structural Conditions Assessment, findings are based strictly on the visual examination of the facility.

Generally, the structure was found to be in poor condition. Brick and clay tile walls are significantly deteriorating at both the exterior and interior of the walls. Many areas would have to be rebuilt to restore the structural integrity of the walls.

Roof structure consists of gypsum based (Siporex) roof deck panels. This material loses structural integrity when it becomes wet. Heavy moisture, likely from a failing roofing system, is evident throughout. This is seen throughout the building; portions of the roof are beginning to fall down inside the building. Shoring installation is a temporary fix but ultimately the entire roof structure would have to be replaced. This area should be cordoned off to protect occupant safety.

Peeling paint and plaster is indicative of moisture in the walls. The plaster would need to be removed to better assess the state of damage to the walls. Removal of moisture damaged plaster was ongoing during this visit.

Floor framing was mostly painted and condition could not be fully reviewed. Additional reinforcing would be required to remove damaged members and reinforce the floors to meet current day loading requirements.

Architectural

No architectural review was undertaken during this Building Condition Assessment, any comments are for recording purposes only.

Mechanical

No mechanical review was undertaken during this Building Condition Assessment, any comments are for recording purposes only.

Electrical

No electrical review was undertaken during this Building Condition Assessment, any comments are for recording purposes only.

Plumbing

No plumbing review was undertaken during this Building Condition Assessment, any comments are for recording purposes only.

Roofing

No Roofing review was undertaken during this Building Condition Assessment, any comments are for recording purposes only.

Generally, we find the building structure located at 108 James Street North in Hamilton (former Tivoli Theatre) to be in poor condition. It should be considered past the point of restoration as the aging walls and roof structure should be replaced.

Respectfully submitted,

Kalos Engineering Inc.

Per: Hank A. P. Huitema, M. Eng., P. Eng.
Senior Structural Engineer
HAPH/HD/ejd

Per: Harjot Dev, B.E.Sc., E.I.T.
Junior Structural Designer

Appendix A Limitations



Limitations

No party other than the Client shall rely on the Consultant's work without the express written consent of the Consultant. The scope of work and related responsibilities are defined in the Conditions of Assignment. Any use which a third party makes of this work, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. Decisions made or actions taken as a result of our work shall be the responsibility of the parties directly involved in the decisions or actions. Any third party user of this report specifically denies any right to any claims, whether in contract, tort and/or any other cause of action in law, against the Consultant (including Sub-Consultants, their officers, agents and employees).

The work reflects the Consultant's best judgement in light of the information reviewed by them at the time of preparation. Unless otherwise agreed in writing by Kalos Engineering Inc., it shall not be used to express or imply warranty as to the fitness of the property for a particular purpose. This is not a certification of compliance with past or present regulations. No portion of this report may be used as a separate entity; it is written to be read in its entirety.

This work does not wholly eliminate uncertainty regarding the potential for existing or future costs, hazards or losses in connection with a property. No physical or destructive testing and no design calculations have been performed unless specifically recorded. Conditions existing but not recorded were not apparent given the level of study undertaken. Only conditions actually seen during examination of representative samples can be said to have been appraised and comments on the balance of the conditions are assumptions based upon extrapolation. Kalos Engineering Inc. can perform further investigation on items of concern if so required.

Only the specific information identified has been reviewed. The Consultant is not obligated to identify mistakes or insufficiencies in the information obtained from the various sources or to verify the accuracy of the information.

Kalos Engineering Inc. is not investigating or providing advice about pollutants, contaminants or hazardous materials. The Client and other users of this report expressly deny any right to any claim, including personal injury claims which may arise out of pollutants, contaminants or hazardous materials, including but not limited to asbestos, mould, mildew or other fungus.

Applicable codes and design standards may have undergone revision since the subject property was designed and constructed. As a result design loads (particularly loading from occupancy, snow, wind, rain and seismic loads) and the specific methods of calculating capacity of the system to resist these loads may have changed significantly. Unless specifically included in our scope, no calculations or evaluations have been completed to verify compliance with current building codes and design standards.

Budget figures are our opinion of a probable current dollar value of the work and are provided for approximate budget purposes only. Accurate figures can only be obtained by establishing a scope of work and receiving quotes from suitable contractors.

Time frames given for undertaking work represent our opinion of when to budget for the work. Failure of the item, or the optimum repair/replacement process, may vary from our estimate.



DESIGNATED SUBSTANCES AND HAZARDOUS BUILDING MATERIALS ASSESSMENT

FINAL REPORT

Former Tivoli Theatre
108 James Street North, Hamilton, Ontario



Prepared for:

Aventus Developments

1418 Ontario Street, Burlington, Ontario L7S 1G4

Attention: *Edward John, Director of Development*

Prepared by:

Access Environmental Solutions

775 Lucerne Avenue, Waterloo, Ontario N2T 2Y3

April 9, 2024

Project No.: **10113.002**

EXECUTIVE SUMMARY

Access Environmental Solutions (Access) was retained by the Aventus Developments (Aventus / Client) to complete an assessment for designated substances and hazardous building materials at the former Tivoli theatre located at 108 James Street North, Hamilton, Ontario.

The assessment is required in advance of planned renovation of the subject building to meet the requirements of the Ontario Occupational Health and Safety Act and Regulations.

The assessment was completed by Andy Andriotis and Norbert Nabbe of Access on October 5, 2023. The assessors were provided access to the building by Edward John of Aventus. The building was unoccupied during the Access site visit.

KEY FINDINGS

Designated substances and hazardous building materials were identified to be present as summarized below.

Asbestos (Confirmed)

Asbestos was confirmed to be present in the following building materials:

- parging insulation (Alabastine®) at the brick chimney wall (L105)
- floor tile and mastic in the second-floor projector room (L208)
- floor tile and mastic in the second-floor washroom area (L205)
- various floor levelling compounds and underlying floor mastic present in the front entrance area (L101)
- parging cement fitting insulation on pipes in crawl space (L02) below front lobby area (generally in poor condition) – parging cement insulation is likely present concealed throughout the building
- thermal pipe insulation on pipes in crawl space (L02) below front lobby area (generally in poor condition) – pipe insulation is likely present concealed throughout the building
- plaster on walls, ceilings, ornamental mouldings throughout subject building (see note below)
- mastic on the floor throughout the front lobby area (L102)
- texture finish on walls and ceilings in storage room (L109) at the back right corner of backstage area

The condition of the asbestos-containing plaster throughout the building is extremely poor, evidenced by widespread damage to plaster walls and ceilings. Debris from this asbestos plaster can be found throughout the premises. Consequently, it is recommended to treat all building surfaces as contaminated with asbestos fibres due to the extent of plaster damage and debris present.

In addition to the above, a cementitious coating is present in basement room (L15) below the backstage area. Although the material contains asbestos at less than the O. Reg. 278/05 threshold of 0.5%, as a safety precaution it is recommended to be managed as an asbestos-containing material.

The previous assessment completed by Reveal Environmental Inc. identified fibrous asbestos-containing paper debris in the ceiling space above the balcony, but Access did not observe this. It is possible that the debris was removed during earlier abatement efforts in this area.

Asbestos (Presumed)

Asbestos is presumed to be present in the following building materials:

- flexible fabric connectors on ductwork in basement mechanical room (L03)
- sheathing on electrical wiring throughout subject building
- electrical components within electrical panels, switches, breakers, fuse holders, light fixtures etc.
- cast iron pipe connections
- fibreglass insulation and other surfaces throughout the building (contaminated with asbestos fibres from damaged plaster)

Refer to **Appendix 3** for a summary of building components and materials that were assessed for asbestos and **Appendix 4** for a detailed summary of components and materials confirmed to contain and/or presumed to be asbestos containing.

Refer to Section 4.1.3 of the report for a list of additional building materials that if uncovered should be suspected of containing asbestos.

Lead

Reveal Environmental Inc. (Reveal) conducted tests that identified lead in various paint and surface coatings, with concentrations varying from less than 0.0005% (5 ppm) to 3.67% (36,700 ppm).

Paint and surface coatings that have not been tested are presumed to contain lead.

Paint and surface coatings were found to be in deteriorating condition, exhibiting extensive peeling and flaking and debris on surfaces throughout the premises.

Lead is also presumed to be present in the following materials:

- batteries (i.e., emergency lighting, exit signs etc.)
- cable and wire sheathing
- cast iron pipe gaskets and connections
- pipes
- solder used on domestic water lines, bell fittings for cast iron pipes, electrical equipment
- structural steel primer

Mercury

Mercury is suspected to be present in the following materials:

- compact fluorescent lights (vapour form)
- paints and adhesives (in stable form)

Silica

Silica may be present in the following materials common to buildings:

- concrete and cement
- masonry and mortar
- block walls
- drywall
- paints
- plaster and stucco

Polychlorinated Biphenyls (PCB)

PCBs may be present in the following materials:

- concealed within electrical equipment including transformers, capacitors, pot heads, cables

Ozone-Depleting Substances (ODS)

ODS-containing equipment was not observed to be present within the building. Rooftop HVAC units (if present) may contain ODS refrigerants.

Mould

Mould growth is prevalent on various surfaces throughout the building due to ongoing water damage and leaks. Temperature and humidity are unregulated, which has contributed to conditions that promote mould growth.

Biological Contaminants

Animal waste was observed in several parts of the attic, particularly beneath the fibreglass batt insulation. Given the state of the building, it is likely that similar waste is present in other areas of the building.

SUMMARY OF RECOMMENDATIONS

General Recommendations

- A copy of this designated substances and hazardous building materials assessment report should be kept on the premises during the renovation process.
- Ensure workers have awareness training with respect to the hazards of asbestos, lead, silica, mercury, and mould on a project.
- Due to the presence of damaged asbestos-containing plaster, debris, mould growth, and flaking and peeling lead paint, to safeguard health, it is recommended for anyone entering the building to wear personal protective equipment (PPE), including an appropriate respirator (half-face or full-face respirator equipped with P100 filters).

Recommendations for Renovation Projects

Asbestos

- Building materials excluded from the scope of this assessment or that could not be assessed due to limitations encountered at the time of the assessment, as noted in the report, should be investigated prior to disturbance. Refer to the report for details regarding this.
- Building materials confirmed and/or presumed to contain asbestos must be removed prior to disturbance in accordance with procedures prescribed in O. Reg. 278/05. Refer to **Appendix 3** and **Appendix 4** for removal recommendations.
- Damaged asbestos-containing materials should be cleaned-up in accordance with procedures prescribed in O. Reg. 278/05. Refer to **Appendix 3** and **Appendix 4** for recommendations.
- Safe work procedures satisfying the requirements of O. Reg. 278/05 should be implemented if the asbestos-containing materials and presumed asbestos-containing materials are not removed but may potentially be disturbed by any renovation, alteration, or maintenance work.
- Due to the extensive presence of damaged asbestos-containing plaster and plaster debris, O. Reg. 278/05 Type 3 operations (in conjunction with EACC Level 3 mould operations) should be followed for the removal and clean-up of asbestos-containing materials within the building.
- If suspect asbestos-containing materials (refer to Section 4.1.3) are uncovered during renovation work, work that may disturb the material should cease immediately. Samples of the materials should be collected and tested for asbestos content. Materials confirmed to contain asbestos should be removed prior to further disturbance in accordance with O. Reg. 278/05 work procedures. Alternatively, the suspect materials can be presumed to be asbestos-containing and removed following O. Reg. 278/05 work procedures.
- In accordance with the requirements of O. Reg. 278/05, the Ministry of Labour, Joint Health and Safety Committee, building owner(s) and contractors should be notified when previously unidentified friable material that is confirmed to be asbestos-containing (i.e., Aircell® pipe

insulation, parging cement pipe fitting insulation, etc.) is discovered during demolition and construction work.

- It is recommended that a qualified asbestos consultant monitor and document abatement operations.
- Clearance air monitoring by a qualified asbestos consultant is a regulated requirement for O. Reg. 278/05 Type 3 operations.

Lead

- The safe work practices provided in the following documents should be followed for the disturbance of lead-containing materials:
 - "Lead on Construction Projects", Ministry of Labour, April 2011
 - "Lead Guideline for Construction, Renovation, Maintenance or Repair", Environmental Abatement Council of Canada (EACC), October 2014
- Loose and flaking paints confirmed or presumed to contain lead should be cleaned-up and disposed of in accordance with the requirements of O. Reg. 347/90, the Ontario waste management regulation.
- Building materials containing lead should be tested for leachable lead prior to disposal as they may be subject to classification as hazardous waste.
- Lead-containing batteries should be recycled when taken out of service.

Mercury

- Avoid damage to mercury-containing equipment.
- Complete removal and proper disposal of mercury-containing equipment is required when the equipment is taken out of service or prior to renovation work.
- Mercury is a hazardous waste and should be disposed of in accordance with the requirements of O. Reg. 347/90. As a preferred alternative, mercury-containing equipment can be sent for recycling.

Silica

- The safe work practices provided in the following document should be followed for the disturbance of silica-containing materials:
 - "Silica on Construction Projects", Ministry of Labour, April 2011

Polychlorinated Biphenyls (PCB)

- Prior to decommissioning, verify the PCB content of electrical equipment. Confirmed PCB-containing equipment should be handled, stored, and disposed of in accordance with applicable federal and provincial regulations.

Ozone-Depleting Substances (ODS)

- Equipment containing or suspected to contain ODS refrigerants should be decommissioned by a licenced refrigeration technician prior to removal.

Mould

- Mould abatement work should be undertaken where mould-impacted building materials were identified. The work should be completed by specialized mould abatement contractors following the safe work practices and precautions provided in the EACC publication entitled "EACC Mould Abatement Guideline", Edition 3, (2015)
- Implement EACC Level 3 operations (in conjunction with O. Reg. 2778/05 Type 3 operations) for the remediation of mould-impacted building materials.
- The degree of mould growth noted may change with time if water or humidity issues continue or develop beyond the assessment date(s). As such, it is recommended that any sources of water infiltration or high humidity be corrected to prevent the continuation or reoccurrence of mould growth prior to remedial efforts and reinstatement of removed materials.

Biological Contaminants

- Follow recommendations provided by the L'Institute de recherche Robert-Sauvéen santé et en sécurité du travail (IRSST), for the management of biologically. contaminated materials to protect workers during demolition activities.

Refer to Section 5.0 of the report for more detailed recommendations.

The findings and recommendations provided in the Executive Summary must be read and understood within the context of the full report including all standard limitations.

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- APPENDIX 5** Laboratory Analytical Report – Asbestos

1.0 INTRODUCTION

Access Environmental Solutions (Access) was retained by the Aventus Developments (Aventus / Client) to complete an assessment for designated substances and hazardous building materials at the former Tivoli theatre located at 108 James Street North, Hamilton, Ontario.

The assessment was undertaken in advance of planned renovation of the subject building to meet the requirements of the Ontario Occupational Health and Safety Act and Regulations (refer to **Appendix 1**, Regulatory Framework). In accordance with these requirements, the assessment is intended to identify designated substances and hazardous materials requiring special attention prior to their disturbance. The report identifies the presence of building materials that contain and/or are presumed to contain asbestos and other building-related designated substances. Additionally, the report identifies the potential presence of hazardous building materials such as mould, polychlorinated biphenyls (PCB) and ozone-depleting substances. These were included in the assessment as there are regulations, standards and best-practices in place governing their management.

The assessment was completed by Andy Andriotis and Norbert Nabbe of Access on October 5, 2023. The assessors were provided access to the building by Edward John of Aventus. The building was unoccupied during the Access site visit.

2.0 ASSESSMENT APPROACH

2.1 Scope of Work

Access assessed the subject building for designated substances including asbestos, lead, mercury, and silica that may be incorporated in the building's structure and finishes.

Additionally, Access assessed for the following hazardous materials:

- Mould
- Polychlorinated Biphenyls (PCB)
- Ozone Depleting Substances (ODS)

The assessment excluded the following designated substances that are not typically incorporated into building materials:

- Arsenic
- Acrylonitrile
- Benzene
- Coke oven emissions
- Ethylene oxide
- Isocyanates
- Vinyl chloride (i.e., monomer form)

2.2 Methodology

Details on the methodology that were used during the assessment are provided in **Appendix 1**.

2.3 Extent of the Assessment

The assessment was limited to the following areas:

- lower levels (basement area below stage and portion of crawl space area below front theatre lobby area)
- main theatre area
- front entrance and lobby
- second floor level (balcony, projector room, washrooms, etc.)
- catwalk area (above main theatre area)

2.4 Areas Not Inspected

The following areas were not accessible for inspection for the reasons provided:

- crawl space below front entrance (inaccessible)
- building exterior at elevated heights (inaccessible)
- spaces above hard ceilings or within wall cavities without access hatches (inaccessible)
- roofing materials (outside scope of work)

2.5 Standard Limitations

Unless explicitly included in the project scope of work, the assessment by Access excludes the following:

- sub-grade materials and equipment (i.e., buried storage tanks, drums, vessels, conduits, pipes etc.)
- concealed drywall and/or plaster finishes (i.e., behind new walls in renovated areas)
- interior surfaces of ductwork (i.e., insulation, woven tape on duct joints etc.)
- building contents including non-fixed equipment, stored items, furniture, appliances, etc.
- building and structural components that are subject to damage if sampled
- energized equipment and systems
- areas deemed unsafe to enter due to structural damage, confined spaces etc.
- operational and process-related equipment including associated process chemicals and stored materials etc.

All quantities referenced within the report are approximate and should be verified by the user.

3.0 BACKGROUND INFORMATION

3.1 Relevant Historic Reports

The following reports were provided to Access as part of this assessment:

- “Hazardous Building Materials Assessment, 108 James Street North, Hamilton, Ontario”, by Reveal Environmental Inc. (Reveal), dated April 26, 2017, prepared for Metro Contract Management Inc.,

The Reveal report provided Access with an understanding of previously identified asbestos-containing materials and other designated substances and hazardous building materials.

3.2 Renovation Scope of Work

Extensive renovations are to be undertaken. However, the full scope of these renovations was not determined at the time of the assessment.

3.3 Description of Assessed Area

The following describes existing conditions known to be present or encountered during the assessment:

Building	General Information	Construction Materials
108 James Street North, Hamilton	<ul style="list-style-type: none"> - <i>usage</i>: theatre (former) - <i>no. of levels</i>: 4 – basement, main theatre level, second floor, catwalk - <i>total area (sf)</i>: ~12k (estimated footprint) - <i>age (orig. const.)</i>: pre-1994 (theatre) - <i>age (addition)</i>: pre-1994 (entrance foyer) 	<ul style="list-style-type: none"> - <i>foundation</i>: poured concrete - <i>building structure</i>: wood, metal, poured concrete - <i>exterior cladding</i>: brick - <i>interior finishes</i>: plaster, drywall, acoustic tiles, decorative textiles, textured finishes, plaster moulding - <i>flooring</i>: vinyl sheet flooring, vinyl floor tiles, concrete, wood - <i>roofing system</i>: built-up roof (assumed) - <i>building insulation</i>: fibreglass (catwalk area)

4.0 FINDINGS

The findings of the assessment for designated substances and hazardous building materials are provided below.

4.1 Asbestos

The assessment involved a review of each building component and material that was suspected to contain asbestos. For ease of reference, each component and material was assigned a unique “Building Component & Material” (BCM) number. A summary of all building components and materials that were assessed are provided in **Appendix 3**.

The summary includes the following information:

- BCM Reference #
- identification of each building component or material under review
- a description of the material
- whether the material is friable or not (based on the definition provided in the asbestos regulation)
- sample reference numbers and analytical results
- comments
- photographs depicting the material or building component

Where asbestos was confirmed to be present, the following additional details were provided for each building component or material:

- Access Location ID Numbers (for cross reference with floorplans provided in **Appendix 2**)
- location/area description (i.e., common names for each room space)
- approximate quantity
- condition
- damaged quantity (as a percentage of the total quantity)
- accessibility (i.e., criterion for how easily the asbestos-containing material can be accessed by building occupants, maintenance workers etc.)
- visibility (i.e., whether the building materials are hidden from view versus those that are visible without opening hatches or removing ceiling tiles)
- comments
- recommendations for the management of the particular building component or material

A copy of the laboratory Certificate of Analysis for asbestos testing is provided in **Appendix 5**.

4.1.1 Asbestos-Containing Materials (Confirmed)

Based on the findings of the assessment, asbestos was confirmed to be present in the following building materials:

- parging insulation (Alabastine) at the brick chimney wall (L105)
- floor tile and mastic in the second-floor projector room (L208)
- floor tile and mastic in the second-floor washroom area (L205)
- various floor levelling compounds and underlying floor mastic present in the front entrance area (L101)
- parging cement fitting insulation on pipes in crawl space (L02) below front lobby area (generally in poor condition) – parging cement insulation is likely present concealed throughout the building
- thermal pipe insulation on pipes in crawl space (L02) below front lobby area (generally in poor condition) – pipe insulation is likely present concealed throughout the building

- plaster on walls, ceilings, ornamental mouldings throughout subject building (see note below)
- mastic on the floor throughout the front lobby area (L102)
- texture finish on walls and ceilings in storage room (L109) at the back right corner of backstage area

The condition of the asbestos-containing plaster throughout the building is extremely poor, evidenced by widespread damage to plaster walls and ceilings. Debris from this asbestos plaster can be found throughout the premises. Consequently, it is recommended to treat all building surfaces as contaminated with asbestos fibres due to the extent of plaster damage and debris present.

In addition to the above, a cementitious coating is present in basement room (L15) below the backstage area. Although the material contains asbestos at less than the O. Reg. 278/05 threshold of 0.5%, as a safety precaution it is recommended to be managed as an asbestos-containing material.

Reveal identified fibrous asbestos-containing paper debris in the ceiling space above the balcony, but Access did not observe it. It is possible that the debris was removed during earlier abatement efforts in this area.

4.1.2 Asbestos-Containing Materials (Presumed)

Asbestos is presumed to be present in the following building materials that were specifically observed during the assessment that are known to contain asbestos and/or materials that could not be sampled and tested due to limitations encountered:

- flexible fabric connectors on ductwork in basement mechanical room (L03)
- sheathing on electrical wiring throughout subject building
- electrical components within electrical panels, switches, breakers, fuse holders, light fixtures etc.
- cast iron pipe connections
- fibreglass insulation and other surfaces throughout the building (contaminated with asbestos fibres from damaged plaster)

4.1.3 Asbestos-Containing Materials (Suspected)

The following building materials may contain asbestos but were not specifically observed during the assessment and may become uncovered during renovation or demolition activities:

- additional floor levelling compounds
- concealed caulking, sealants, mastics, adhesives
- Transite® cement products such as board or pipe/conduit (concealed, including subgrade areas)
- concealed insulation (i.e., thermal systems insulation, vermiculite, thermal or fire spray insulation, insulative linings, firestop etc.) in wall and ceiling cavities, attics, crawlspaces, chimneys, inside

masonry cavities, interstitial spaces between masonry walls, within any mechanical equipment, inside fire doors etc.

These are listed as suspect materials **that require special attention should they be encountered during planned renovation or demolition activities**. If encountered, work that may disturb the material should stop immediately. Samples of the materials should be collected and tested for asbestos content. As noted in the recommendations section below, materials confirmed to contain asbestos should be removed prior to further disturbance in accordance with O. Reg. 278/05 work procedures.

Please refer to **Appendix 4** for a detailed summary of building components and materials that were confirmed or are presumed to contain asbestos.

4.2 Lead

4.2.1 Paint and Surface Coatings

Reveal Environmental Inc. (Reveal) conducted tests that identified lead in various paint and surface coatings, with concentrations varying from less than 0.0005% (5 ppm) to 3.67% (36,700 ppm).

Paint and surface coatings that have not been tested are presumed to contain lead.

Paint and surface coatings were found to be in deteriorating condition, exhibiting extensive peeling and flaking and debris on surfaces throughout the premises.



Photo 1: Example of peeling and flaking paint on wood ceilings below stage area.



Photo 2: Example of peeling and flaking paint on plaster walls below stage area.



Photo 3: Example of peeling and flaking paint on plaster walls behind stage area.



Photo 4: Example of peeling and flaking paint on plaster walls on second floor in the projection room.



Photo 5: Example of damaged paint on plaster walls on second floor.

4.2.2 Other Presumed Lead-Containing Materials

Lead is presumed to be present in the following building materials:

- batteries (i.e., emergency lighting, exit signs etc.)
- cable and wire sheathing
- cast iron pipe gaskets and connections
- pipes
- solder used on domestic water lines, bell fittings for cast iron pipes, electrical equipment
- structural steel primer



Photo 6: Example of suspected lead-containing primer on structural steel roof framing.



Photo 7: Example of suspected lead-containing pipes and joints.



Photo 8: Example of exit signs suspected to contain lead acid batteries.

4.3 Mercury

Mercury is suspected to be present in the following materials:

- compact fluorescent lights (vapour form)
- high intensity discharge (HID) lamps (vapour form)
- paints and adhesives (in stable form)

4.4 Silica

The following common building materials may contain crystalline silica and are present within the assessed area.

- concrete and cement
- masonry and mortar
- block walls
- drywall
- paints
- plaster and stucco

4.5 Polychlorinated Biphenyls (PCB)

PCBs may be present in the following materials:

- concealed within electrical equipment including transformers, capacitors, pot heads, cables

4.6 Ozone Depleting Substances (ODS)

ODS-containing equipment was not observed to be present within the building. Rooftop HVAC units (if present) may contain ODS refrigerants.

4.7 Mould

Mould growth is prevalent on various surfaces throughout the building due to ongoing water damage and leaks. Temperature and humidity are unregulated, which has contributed to conditions that promote mould growth.



Photo 9: Example of moisture damage and mould growth on lower walls throughout rooms below stage area.



Photo 10: Example of moisture damage on lower walls throughout rooms below stage area.



Photo 11: Water damage and mould growth in staircase area leading to projection room.



Photo 12: Water-damaged ceiling and mould growth on second floor.



Photo 13: Water damage and mould growth on roofing above catwalk area.

4.8 Biological Contaminants

Animal waste was observed in several parts of the attic, particularly beneath the fibreglass batt insulation. Given the state of the building, it is likely that similar waste is present in other areas of the building.

5.0 RECOMMENDATIONS

5.1 General Recommendations

The following general recommendations apply to the management of designated substances and hazardous materials identified at the subject building:

- A copy of this designated substances and hazardous building materials assessment report should be kept on the premises during the renovation process.
- In addition to specific recommendations provided below, apply the following good general work practices on construction/demolition projects:
 - Avoid dry-sweeping and use of compressed air for cleaning surfaces. Alternatively, high-efficiency particulate air (HEPA) vacuums are recommended for cleaning up dust settled on surfaces.
 - Implement good personal hygiene measures including:
 - prohibiting eating drinking or use of tobacco products in work areas
 - washing hands and face before eating, drinking, or smoking outside of work areas
 - changing into disposable or washable work clothes at the worksite
 - showering (if possible) and changing into clean clothes before leaving the worksite to prevent contamination of other work areas, cars, and homes
 - Ensure workers have awareness training with respect to the hazards of asbestos, lead, silica, mercury, and mould on a project.
- Due to the presence of damaged asbestos-containing plaster, debris, mould growth, and flaking and peeling lead paint, to safeguard health, it is recommended for anyone entering the building to wear personal protective equipment (PPE), including an appropriate respirator (half-face or full-face respirator equipped with P100 filters).

5.2 Recommendations for Renovation Projects

5.2.1 Asbestos

- Building materials excluded from the scope of this assessment or that could not be assessed due to limitations encountered at the time of the assessment, as noted in the report, should be investigated prior to disturbance.

- Building materials confirmed and presumed to contain asbestos must be removed prior to disturbance in accordance with procedures prescribed in O. Reg. 278/05. Refer to **Appendix 3** and **Appendix 4** for removal recommendations.
- Damaged asbestos-containing materials should be cleaned-up in accordance with procedures prescribed in O. Reg. 278/05. Refer to **Appendix 3** and **Appendix 4** for recommendations.
- Safe work procedures satisfying the requirements of O. Reg. 278/05 should be implemented if the asbestos-containing materials and presumed asbestos-containing materials are not removed but may potentially be disturbed by any renovation, alteration, or maintenance work.
- Due to the extensive presence of damaged asbestos-containing plaster and plaster debris, O. Reg. 278/05 Type 3 operations (in conjunction with EACC Level 3 mould operations) should be followed for the removal and clean-up of asbestos-containing materials within the building.
- If suspect asbestos-containing materials are uncovered during renovation work, work that may disturb the material should stop immediately. Samples of the materials should be collected and tested for asbestos content. Materials confirmed to contain asbestos should be removed prior to further disturbance in accordance with O. Reg. 278/05 work procedures. Alternatively, the suspect materials can be presumed to be asbestos-containing and removed following O. Reg. 278/05 work procedures.
- In accordance with the requirements of O. Reg. 278/05, the Ministry of Labour, Joint Health and Safety Committee, building owner(s) and contractors should be notified when previously unidentified friable material that is confirmed to be asbestos-containing (i.e., Aircell® pipe insulation, parging cement pipe fitting insulation, etc.) is discovered during demolition and construction work.
- It is recommended that a qualified asbestos consultant monitor and document abatement operations.
- Clearance air monitoring by a qualified asbestos consultant is a regulated requirement for O. Reg. 278/05 Type 3 operations.

5.2.2 Lead

- The safe work practices provided in the following documents should be followed for the disturbance of lead-containing materials:
 - "Lead on Construction Projects", Ministry of Labour, April 2011
 - "Lead Guideline for Construction, Renovation, Maintenance or Repair", Environmental Abatement Council of Canada (EACC), October 2014

The guidelines referenced above provide specific recommendations for controlling lead hazards on construction projects including i) engineering controls; ii) work practices; iii) hygiene practices;

iv) protective clothing and equipment; v) work classifications; vi) training; and, vii) medical surveillance.

- Lead exposure monitoring should be considered to determine the adequate level of protection that may be required, if any, for project-specific tasks that disturb lead-containing materials. In the absence of such monitoring, the use of personal protective equipment including respirators and implementation of other safe work practices are recommended to reduce the potential for over-exposure to lead dust.
- Loose and flaking paints confirmed or presumed to contain lead should be cleaned-up and disposed of in accordance with the requirements of O. Reg. 347/90, the waste management regulation made under the Environmental Protection Act.
- Building materials containing lead should be tested for leachable lead prior to disposal as they may be subject to classification as hazardous waste.
- Lead-containing batteries should be recycled when taken out of service.

5.2.3 Mercury

- Avoid damage to mercury-containing equipment.
- Complete removal of mercury-containing equipment is required when the equipment is taken out of service or prior to renovation work.
- Mercury-containing equipment can be sent for recycling.
- Mercury is a hazardous waste and should be disposed of in accordance with the requirements of O. Reg. 347/90.

5.2.4 Silica

- The safe work practices provided in the following document should be followed for the disturbance of silica-containing materials:
 - "Silica on Construction Projects", Ministry of Labour, April 2011The guideline provides specific recommendations for controlling silica hazards on construction projects including i) engineering controls; ii) work practices; iii) hygiene practices; iv) protective clothing and equipment; v) work classifications; vi) training; and, vii) medical surveillance.
- Silica exposure monitoring should be considered to determine the adequate level of protection that may be required, if any, for project-specific tasks that disturb silica-containing materials. In the absence of such monitoring, the use of personal protective equipment including respirators and implementation of other safe work practices, housekeeping and hygiene measures are recommended to reduce the potential for over-exposure to silica dust during drilling, cutting, grinding, sawing, sanding, scarifying, sweeping or other demolition activities that disturb silica-containing materials.

5.2.5 Polychlorinated Biphenyls (PCB)

- Prior to decommissioning, verify the PCB content of electrical equipment. Confirmed PCB-containing equipment should be handled, stored, and disposed of in accordance with applicable federal and provincial regulations.

5.2.6 Ozone-Depleting Substances (ODS)

- Equipment containing or suspected to contain ODS refrigerants should be decommissioned by a licenced refrigeration technician prior to removal.

5.2.7 Mould

- Mould abatement work should be undertaken where mould-impacted building materials were identified. The work should be completed by specialized mould abatement contractors following the safe work practices and precautions provided in the EACC publication entitled "EACC Mould Abatement Guideline", Edition 3, (2015)
- Implement EACC Level 3 operations (in conjunction with O. Reg. 2778/05 Type 3 operations) for the remediation of mould-impacted building materials.
- The degree of mould growth noted may change with time if water or humidity issues continue or develop beyond the assessment date(s). As such, it is recommended that any sources of water infiltration or high humidity be corrected to prevent the continuation or reoccurrence of mould growth prior to remedial efforts and reinstatement of removed materials.

5.2.8 Biological Contaminants

- Follow recommendations provided by the L'Institute de recherche Robert-Sauvé en santé et en sécurité du travail (IRSST), for the management of biologically contaminated materials to protect workers during demolition activities.

6.0 CLOSURE

Limitations with respect to the assessment methodology are provided in **Appendix 1**.

The work performed by Access is conducted by trained professional and technical staff in accordance with generally accepted engineering and scientific practices current at the time and geographic location the work is performed.

The findings of the assessment represent the best technical judgment of Access based on the information made available by the Client and on the site conditions encountered by Access at the date and time the work was performed. The findings are limited to the areas assessed based on the mutually agreed to scope of work. The extent of the area that was assessed may be limited by various factors including

building construction and conditions, subsurface conditions, concealed or obscured areas, weather, building usage, occupancy and other factors. Due to the nature of the investigation and the limited data available, Access cannot warrant against undiscovered environmental liabilities. Conclusions presented in the report or other information provided should not be construed as legal advice.

No warranty is either expressed or implied, or intended by this agreement or by furnishing oral or written reports or findings. Access' liability will be limited to the lesser of the fees paid or actual damages incurred by the Client. Access will not be responsible for any consequential or indirect damages and can only be liable for damages resulting from the negligence of Access.

The report and other information provided by Access is intended for Client use only unless the Client, in writing to Access, requests the report and other information to be provided to a third party or unless disclosure by Access is required by law. Unless consented to by Access, which consent may be reasonably and/or arbitrarily withheld, only the Client shall be entitled to rely on the documents provided by Access in the performance of the services. The documents relate solely to the services for which Access has been retained and shall not be used or relied upon by the Client or any third party for any variation or extension of the services, any other project or any other purpose.

We trust the report is in accordance with your expectations. If any conditions become apparent that differ significantly from our understanding of conditions as presented in this report, we request that we be notified immediately to reassess the conclusions provided herein.

Should you have any questions or require clarification on any aspect of this assessment, please feel free to contact the undersigned at any time.

Thank you for choosing Access.

Sincerely,

ACCESS ENVIRONMENTAL SOLUTIONS



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APPENDIX 1

Regulations, Methodology
& References

1.0 REGULATORY FRAMEWORK

Under Ontario Regulation 490/09 (O. Reg. 490/09) of the Occupational Health and Safety Act (OHSA), there are eleven designated substances that are regulated and must be controlled for on a construction, renovation or demolition project. Of the eleven substances, four are commonly associated with buildings. These include asbestos, lead, mercury and silica. Under Section 30 of the OHSA, before beginning a project, an owner is obligated to determine whether any designated substances are present at the project site and to provide a list of designated substances to prospective contractors bidding on the work. Additionally, Ontario Regulation 278/05 (O. Reg. 278/05) specifically regulates the disturbance of asbestos-containing materials (ACM) on construction projects and requires building owners to inform contractors of the presence of ACMs prior to requesting tenders or contracting the work. Contractors are in turn obligated to inform their sub-contractors of the presence of these materials.

Regulations and guidelines are also in place for the management of hazardous materials such as mould, polychlorinated biphenyls (PCBs), ozone depleting substances (ODS) and other biological contaminants (i.e., bird, rat or rodent droppings) that may be present in a building and that can be potentially disturbed on a project.

2.0 GENERAL METHODOLOGY

Access undertook a room-by-room walkthrough of the subject building to assess each space for the presence of designated substances and hazardous materials that may be present in building materials based on the defined scope of work. Samples of building materials that were collected were submitted for laboratory analysis.

Given that plaster in the building has been previously identified to contain asbestos, the assessment completed by Access was non-intrusive in nature (i.e., no demolition of building components such as walls, solid ceilings, finishes, to view concealed spaces). Ceiling and wall cavities were inspected where access hatches are present and accessible. Select openings were made in block wall cavities to inspect for vermiculite (refer to Section 2.1.2 below).

The assessment of flooring finishes was more intrusive and included lifting elements like carpets, floor tiles and other layers to examine concealed materials.

The relocation of building contents such as shelving, wall mounted materials, stored items or other items restricting our ability to fully inspect areas was not undertaken.

Details on the methodology employed during the assessment are provided in the following sections.

2.1 Asbestos

Access assessed the subject building for asbestos-containing building materials. During the assessment, representative samples of building materials that are suspected to contain asbestos were collected in accordance with the requirements of Ontario Regulation 278/05 (O. Reg. 278/05). The approach used to determine which building materials are suspected to contain asbestos and require confirmatory testing is based on an understanding of “last use” dates after which asbestos was banned or phased out for a particular type of building material plus a few years to allow for uncertainty.

The condition and approximate quantity of visually encountered potential asbestos-containing material (ACMs) were recorded along with information on the accessibility and visibility of the ACMs. These criteria were used in evaluating the presence and risk posed by the ACMs based on evaluation and risk criteria provided in the Public Works and Government Services Canada (PWGSC) document entitled “Deputy Ministers Directive 057 – Asbestos Management” (Last Revised June 16th, 1999).

Bulk samples collected were submitted for analysis following EPA 600/R-93/116 test method. The samples were submitted to EMC Scientific Inc. (EMC), a NVLAP¹ accredited laboratory. Building materials identified to be non-asbestos are subject to the limitations of the analytical method used.

The number of bulk samples collected is based on the requirements of O. Reg. 278/05 (Table 1, Bulk Material Samples). The regulation specifies the minimum number of samples of a particular building material that should be collected and tested to consider a material non-asbestos-containing. The number of samples will vary between 3 and 7 per set depending on the type of building material.

A “positive stop” option is used during the laboratory analysis of the bulk samples. The “positive stop” option involves consecutively testing a series of samples of a particular building material until test results indicate the presence of asbestos. When this occurs, the remaining samples are not tested. If none of the samples in a sample set test positive for asbestos, the building material under consideration is identified as non-asbestos. This is a cost-effective method of limiting the number of samples that are ultimately tested.

Depending on the project scope of work, age of construction and/or access limitations, some building materials may or may not be sampled and tested for asbestos content per the rationale provided in the following sections.

2.1.1 Vermiculite

Vermiculite may contain asbestos depending on where the material was mined. Vermiculite sourced from the former Libby mine in Montana is known to have been contaminated with asbestos.

¹ National Voluntary Laboratory Accreditation Program

Intrusive sampling of building components (i.e., masonry block walls) was not undertaken however, Access did look for the presence of vermiculite through existing openings in block walls where the vermiculite may be present and accessible for viewing.

2.1.2 Drywall Joint Compound

Drywall joint compound (DJC) may contain asbestos based on date of installation (i.e., pre-1986 after which the use of asbestos-containing drywall joint compound was banned). DJC was not sampled (previously sampled and tested for asbestos by Reveal).

2.1.3 Mastics, Adhesives

Mastics and adhesives associated with flooring materials (i.e., carpet, vinyl floor tile, sheet flooring, baseboards etc.), wall or ceiling materials (acoustic tiles, wall board, paneling etc.) have been known to contain asbestos.

Intrusive sampling of building components to collect sufficient amounts of mastics or adhesives was undertaken.

2.1.4 Cement-Based Products

Asbestos-cement products such as cement board (i.e., Transite) or cement pipe were visually determined to contain asbestos based on markings. Sampling was not undertaken.

2.1.5 Caulking, Sealants, Putties

Caulking, sealants and putties have been known to contain asbestos and were sampled based on project requirements.

2.1.6 Floor Levelling Compounds

Floor levelling compounds are known to contain asbestos. Sampling was undertaken where visible/accessible. Complete removal of floor coverings would be required to fully assess and sample levelling compounds.

2.1.7 Roofing Materials

Roofing materials have been known to contain asbestos.

Sampling of roofing materials was not undertaken (outside scope of work).

2.1.8 Presumed Asbestos Containing Materials (PACM)

Building materials that were visually identified to be present and are widely known to contain asbestos or that are reasonably expected to be present and suspected to be asbestos-containing based on age of construction but that could not be sampled due to limitations of the assessment, project scope of work and/or methodology are listed herein as presumed asbestos-containing materials (PACM). These

materials would require confirmatory testing to determine their asbestos content if they are uncovered. These would include but not be limited to the building materials listed within the body of the report.

2.2 Lead

Samples of paint applications and surface coating were not collected as to the agreed upon scope of work for this project. All paint applications are presumed to be lead-containing.

Sampling previously undertaken by Reveal is referenced.

The potential presence of lead in equipment such as batteries, sheeting, flashing was recorded along with approximate quantities.

2.3 Mercury

Equipment, including thermostat switches, light tubes, pressure gauges etc. that are suspected to contain liquid mercury or mercury vapour were visually assessed. Equipment was not disassembled to determine the presence of mercury. Laboratory testing for mercury was not undertaken.

2.4 Silica

Building components (i.e., cement, concrete, ceramics, masonry, mortar etc.) that may contain crystalline silica were visually assessed and reported on but not quantified. Laboratory testing for crystalline content was not undertaken.

2.5 Polychlorinated Biphenyls

Electrical equipment suspected to contain PCBs were visually assessed and reported on based on the age of the equipment, equipment labels and/or historical information made available to Access. For health and safety reasons, the ballasts of individual lamp fixtures were not inspected as the fluorescent light fixtures may be energized. Laboratory testing of equipment and/or their contents was not undertaken.

2.6 Mould

The presence of mould-impacted building materials was identified where visually accessible at the time of the assessment. Indicators of potential mould growth such as water damage, staining, delamination, efflorescence were reported. Concealed areas were not assessed. Confirmatory bulk or air testing was not undertaken.

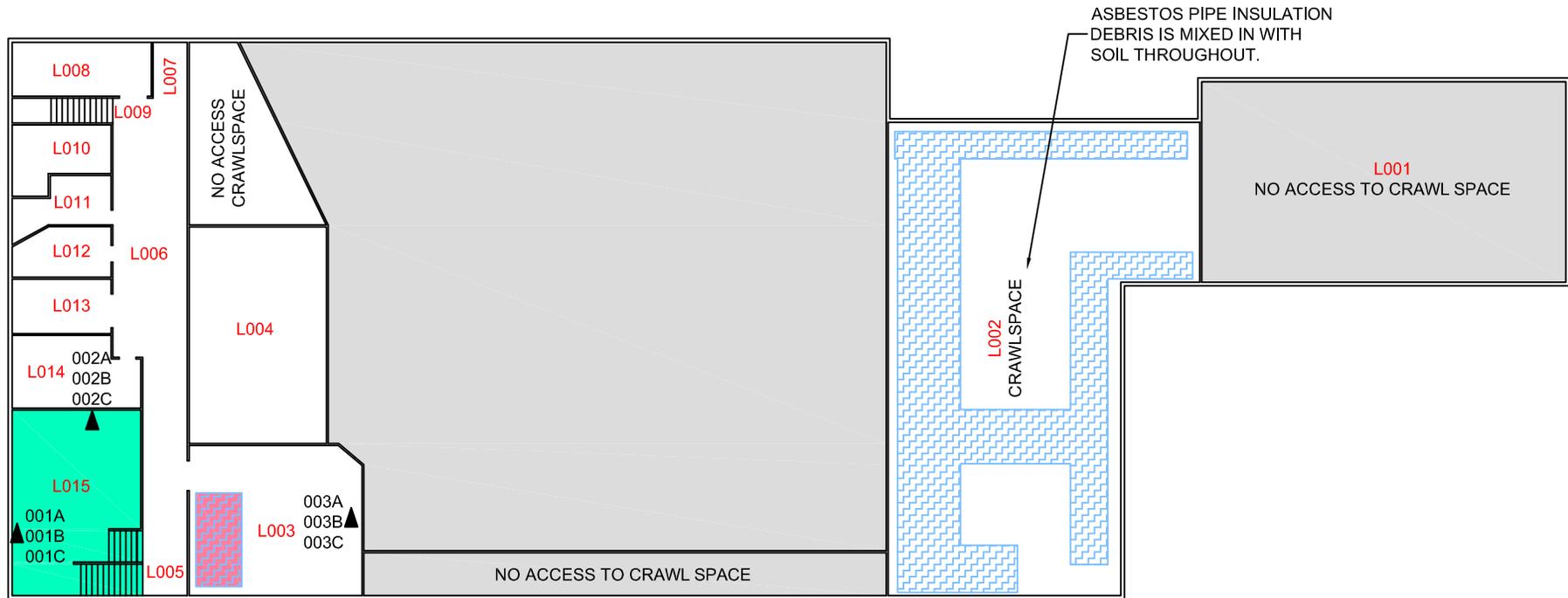
3.0 REFERENCES

The assessment was completed based on information obtained from the following references:

- Occupational Health and Safety Act, R.S.O. 1990
- Environmental Protection Act, R.S.O. 1990
- Designated Substance – Asbestos on Construction Projects and in Buildings and Repair Operations, Ontario Regulation 278/05
- Designated Substances, Ontario Regulation 490/09, Occupational Health and Safety Act
- General – Waste Management, Ontario Regulation 347/90, Environmental Protection Act
- Surface Coating Materials Regulations, SOR/2005-109, Hazardous Products Act
- Lead on Construction Projects, Ministry of Labour Guidance Document, Occupational Health and Safety Act
- Silica on Construction Projects, Ministry of Labour Guidance Document
- EACC Mould Abatement Guidelines, Edition 3 (2015)
- Alert – Mould in Workplace Buildings, Ontario Ministry of Labour

APPENDIX 2

Floor Plans



BASEMENT LEVEL

LEGEND

- L# LOCATION IDs
- ▲ BULK SAMPLING LOCATION
- NOT ASSESSED (NO ACCESS)

ASBESTOS-CONTAINING MATERIALS

- PIPE AND FITTING INSULATION
- PARGING CEMENT INSULATION (AT CHIMNEY, MAY EXTEND TO ROOF)

PRESUMED ASBESTOS-CONTAINING MATERIAL

- CEMENTITIOUS WALL COATING

- NOTES:**
1. PLASTER MATERIAL ON WALLS, CEILINGS AND ORNAMENTAL MOULDINGS ETC. THROUGHOUT CONTAINS ASBESTOS.
 2. FLEXIBLE FABRIC CONNECTORS ON VENTILATION EQUIPMENT IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 3. VARIOUS SWITCHES, BREAKERS, FUSE HOLDERS, WIRING ETC. WITHIN ELECTRICAL PANELS IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 4. SHEATHING ON ELECTRICAL WIRING, CABLES ETC. IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 5. CAST IRON PIPE CONNECTIONS ARE PRESUMED TO CONTAIN ASBESTOS.
 6. PLASTER DEBRIS THROUGHOUT SUBJECT BUILDING IS PRESUMED TO CONTAIN ASBESTOS.
 7. DRAWING CONTAINS COLOURED ELEMENTS THAT MAY NOT BE VISIBLE ON BLACK AND WHITE COPIES.
 8. NOT ALL ASBESTOS-CONTAINING MATERIALS (ACM) MAY BE DEPICTED ON THE DRAWINGS. REFER TO THE REPORT FOR MORE INFORMATION.
 9. DRAWING ILLUSTRATES SUPPORTING INFORMATION SPECIFIC TO AN ACCESS ENVIRONMENTAL SOLUTIONS REPORT AND MUST NOT BE USED FOR OTHER PURPOSES.

DESIGNATED SUBSTANCES AND HAZARDOUS BUILDING MATERIALS ASSESSMENT

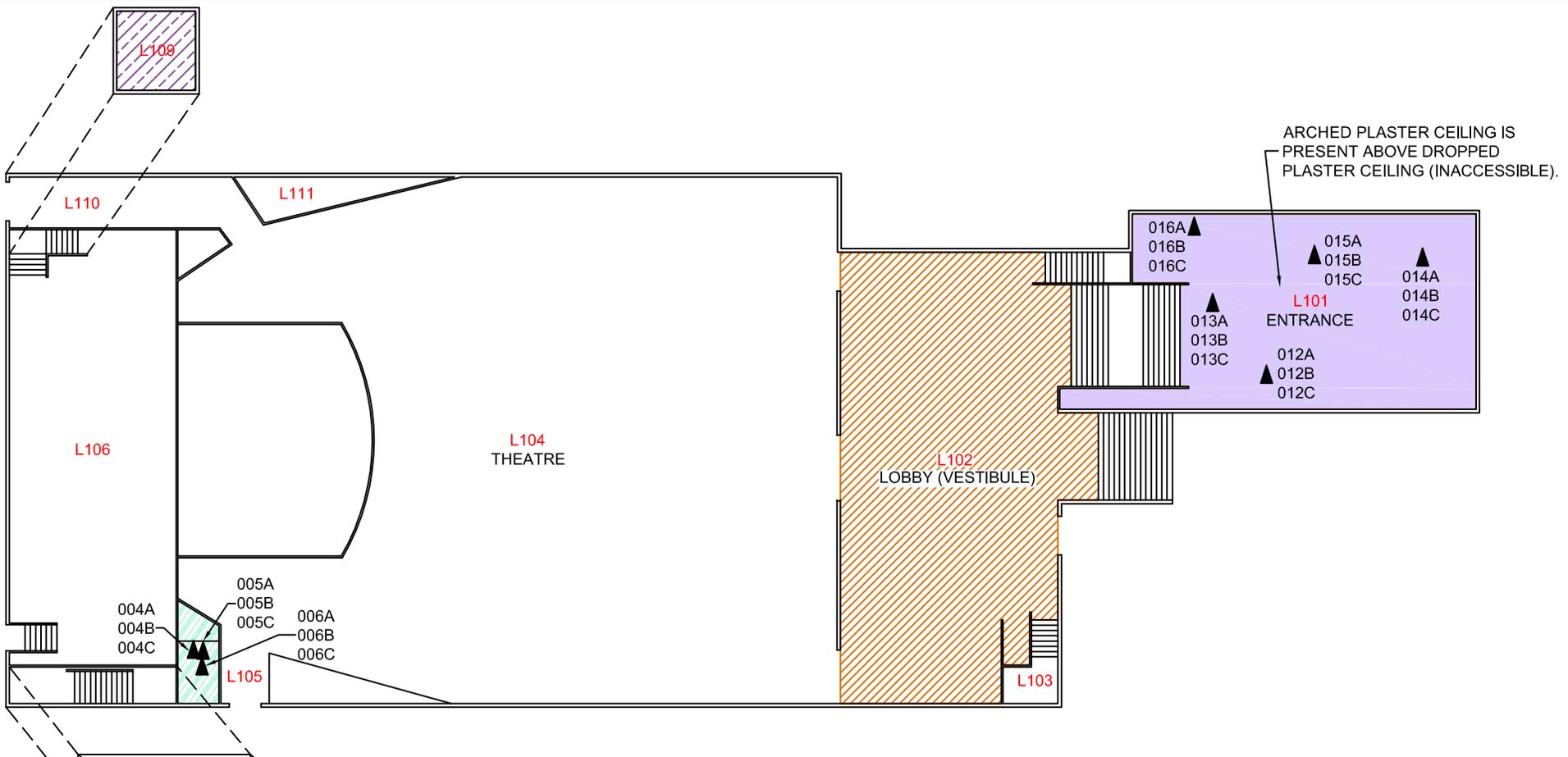
FORMER TIVOLI THEATRE, 108 JAMES STREET NORTH, HAMILTON, ONTARIO

Client: AVENTUS DEVELOPMENTS, 1418 ONTARIO STREET, BURLINGTON, ONTARIO L7S 1G4

Project No.:	10113.002
Scale:	N.T.S.
Date:	24/04/08
Dwn. By:	CD _{CS} AC2024040013
App'd By:	AA

Dwg. No.:
1





GROUND FLOOR

LEGEND

- L# LOCATION IDs
- ▲ BULK SAMPLING LOCATION
- ASBESTOS-CONTAINING MATERIALS**
- PARGING CEMENT INSULATION (AT CHIMNEY)
- TEXTURE FINISH (STUCCO)
- LEVELLING COMPOUND AND FLOOR MASTIC
- FLOOR MASTIC

- NOTES:**
1. PLASTER MATERIAL ON WALLS, CEILINGS AND ORNAMENTAL MOULDINGS ETC. THROUGHOUT CONTAINS ASBESTOS.
 2. VARIOUS SWITCHES, BREAKERS, FUSE HOLDERS, WIRING ETC. WITHIN ELECTRICAL PANELS IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 3. SHEATHING ON ELECTRICAL WIRING, CABLES ETC. IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
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**DESIGNATED SUBSTANCES AND
 HAZARDOUS BUILDING MATERIALS ASSESSMENT**

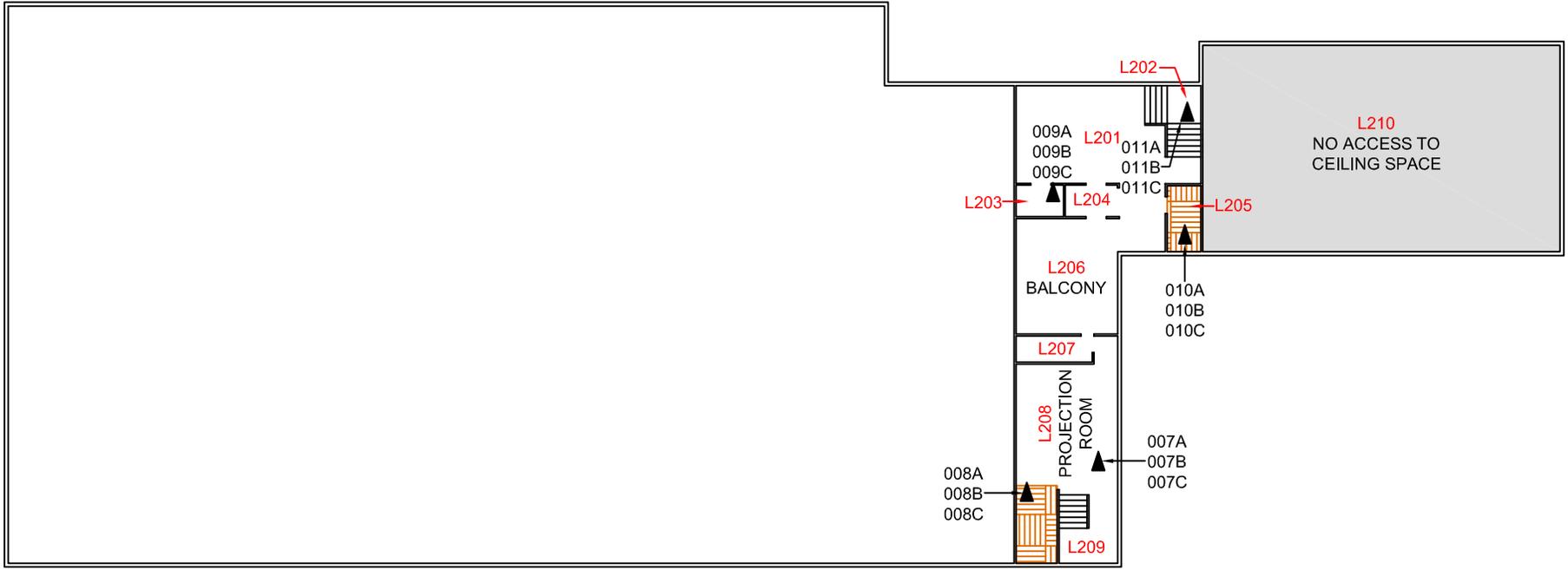
FORMER TIVOLI THEATRE, 108 JAMES STREET NORTH, HAMILTON, ONTARIO

Client: AVENTUS DEVELOPMENTS, 1418 ONTARIO STREET, BURLINGTON, ONTARIO L7S 1G4

Project No.:	10113.002
Scale:	N.T.S.
Date:	24/04/08
Dwn. By:	CD _{CS} AC2024040014
App'd By:	AA

Dwg. No.:	2
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SECOND FLOOR

- NOTES:**
1. PLASTER MATERIAL ON WALLS, CEILINGS AND ORNAMENTAL MOULDINGS ETC. THROUGHOUT CONTAINS ASBESTOS.
 2. VARIOUS SWITCHES, BREAKERS, FUSE HOLDERS, WIRING ETC. WITHIN ELECTRICAL PANELS IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 3. SHEATHING ON ELECTRICAL WIRING, CABLES ETC. IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 4. CAST IRON PIPE CONNECTIONS ARE PRESUMED TO CONTAIN ASBESTOS.
 5. PLASTER DEBRIS THROUGHOUT SUBJECT BUILDING IS PRESUMED TO CONTAIN ASBESTOS.
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 7. NOT ALL ASBESTOS-CONTAINING MATERIALS (ACM) MAY BE DEPICTED ON THE DRAWINGS. REFER TO THE REPORT FOR MORE INFORMATION.
 8. DRAWING ILLUSTRATES SUPPORTING INFORMATION SPECIFIC TO AN ACCESS ENVIRONMENTAL SOLUTIONS REPORT AND MUST NOT BE USED FOR OTHER PURPOSES.

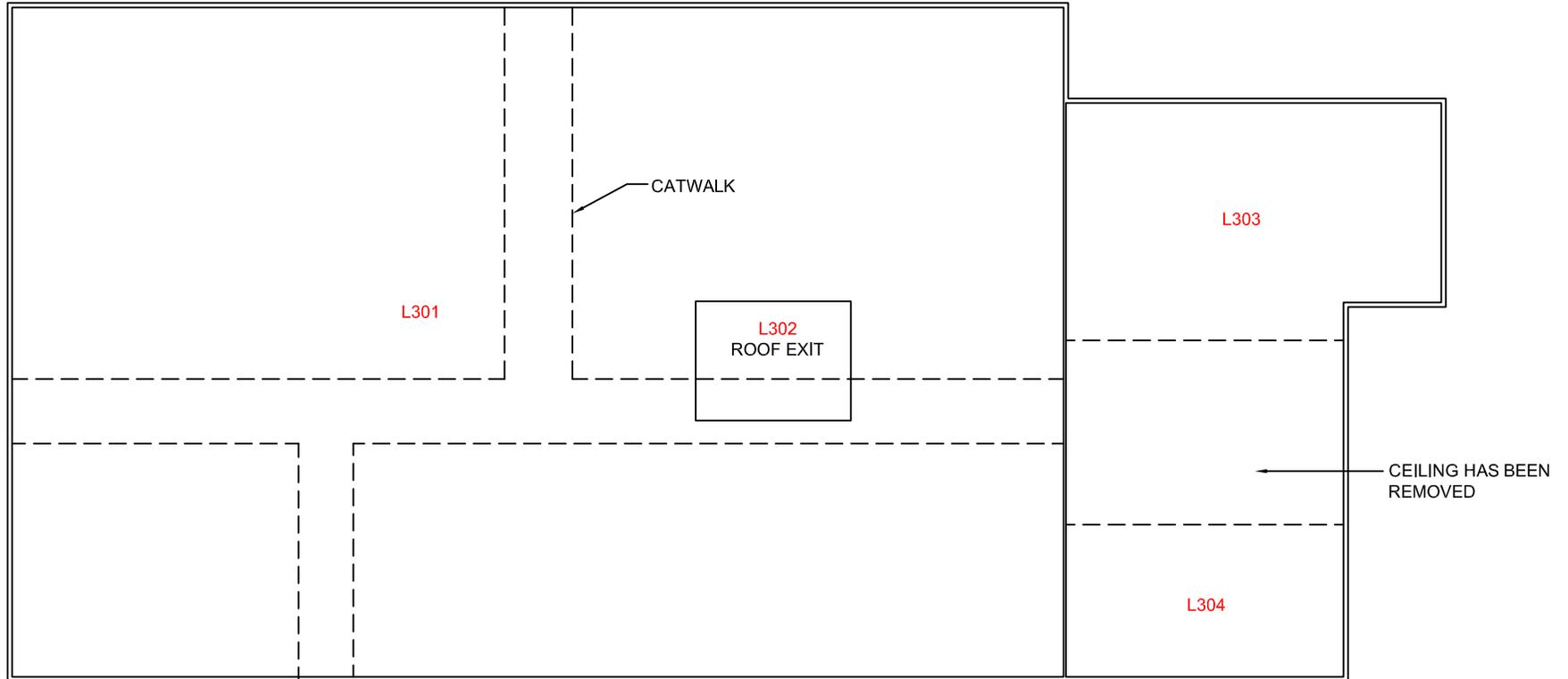
LEGEND

- L# LOCATION IDs
- ▲ BULK SAMPLING LOCATION
- NOT ASSESSED (NO ACCESS)

ASBESTOS-CONTAINING MATERIAL

-  FLOOR TILE AND MASTIC

<p>DESIGNATED SUBSTANCES AND HAZARDOUS BUILDING MATERIALS ASSESSMENT</p> <p>FORMER TIVOLI THEATRE, 108 JAMES STREET NORTH, HAMILTON, ONTARIO</p>	Project No.: 10113.002	<p>Dwg. No.:</p> <p>3</p>	
	Scale: N.T.S.		
	Date: 24/04/08		
	Dwn. By: CD _{CS} AC2024040015		
Client: AVENTUS DEVELOPMENTS, 1418 ONTARIO STREET, BURLINGTON, ONTARIO L7S 1G4	App'd By: AA		



CATWALK / CEILING SPACE

- NOTES:**
1. PLASTER MATERIAL ON WALLS, CEILINGS AND ORNAMENTAL MOULDINGS ETC. THROUGHOUT CONTAINS ASBESTOS.
 2. VARIOUS SWITCHES, BREAKERS, FUSE HOLDERS, WIRING ETC. WITHIN ELECTRICAL PANELS IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 3. SHEATHING ON ELECTRICAL WIRING, CABLES ETC. IS PRESUMED TO CONTAIN ASBESTOS UNTIL TESTING PROVES OTHERWISE.
 4. CAST IRON PIPE CONNECTIONS ARE PRESUMED TO CONTAIN ASBESTOS.
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 8. DRAWING ILLUSTRATES SUPPORTING INFORMATION SPECIFIC TO AN ACCESS ENVIRONMENTAL SOLUTIONS REPORT AND MUST NOT BE USED FOR OTHER PURPOSES.

LEGEND

L# LOCATION IDs

DESIGNATED SUBSTANCES AND HAZARDOUS BUILDING MATERIALS ASSESSMENT FORMER TIVOLI THEATRE, 108 JAMES STREET NORTH, HAMILTON, ONTARIO	Project No.: 10113.002	Dwg. No.: 4	
	Scale: N.T.S.		
Client: AVENTUS DEVELOPMENTS, 1418 ONTARIO STREET, BURLINGTON, ONTARIO L7S 1G4	Date: 24/04/08		
	Dwn. By: CD _{CS} AC2024040016		
	App'd By: AA		

APPENDIX 3

Building Components and Materials (BCM)

Assessed for Asbestos

Building Component and Materials (BCM) Inventory

BCM # 1 CEMENTITIOUS PARGING MATERIAL

Description: *Cementitious parging material on walls and ceiling in basement room below stage (L15).*

Colour: *White, grey*
Friable: na

Samples: 001A to C

Lab Result: *None detected*

Comment: *Parging material tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

- Notes:
- nq - not quantified
 - na - not applicable
 - ns - not sampled
 - sf - square feet
 - lf - linear feet
 - F - friable
 - NF - non friable
 - PFM - potentially friable material
 - BCM - building component and material
 - ACM - asbestos-containing material
 - PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 2 BLACK COATING OVER CEMENTITIOUS PARGING

Description: *Black coating on lower half of walls covering grey cementitious parging in basement room below stage (L15).*

Colour: *Grey (cementitious parging)
 Black (coating)*

Friable: PFM

Samples: *002A.a) to 002C.a) (cementitious material)*

Lab Result: *<0.5% Chrysotile (cementitious material)*

Comment: *Although cementitious material contains asbestos at less than the O. Reg. 278/05 threshold of 0.5%, as a safety precaution it is recommended to be managed as an asbestos-containing material. Black tar material tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L015	Walls	~150 sf	poor	All	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 3 CEMENTITIOUS SKIM COAT

Description: *Cementitious skim coat on concrete walls throughout basement mechanical room (L03).*

Colour: *Off white, grey*

Friable: na

Samples: 003A to C

Lab Result: *None detected*

Comment: *Cementitious skim coat tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 4 PARGING INSULATION TYPE 1 ON BRICK (CHIMNEY)

Description: *Light grey cementitious parging at chimney brick (Alabastine).*

Colour: *Light grey*
Friable: na

Samples: 004A to C

Lab Result: *None detected*

Comment: *Parging insulation tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 5 PARGING INSULATION TYPE 2 ON BRICK (CHIMNEY)

Description: *Soft, grey powdery parging cement overtop of brick (Alabastine).*

Colour: Grey
Friable: Yes

Samples: 005A.a)

Lab Result: 60% Chrysotile

Comment: *Parging cement tested contains asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L105	Alcove area to the left of the stage	~ 100 to 2,500 sf	-	-	A	Yes	Parging on brick likely extends from basement to roof (concealed).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 6 PARGING INSULATION TYPE 3 ON BRICK (CHIMNEY)

Description: *Hard, cementitious material on Alabastine brick.*

Colour: *Grey, white, grey*
Friable: Yes

Samples: *006A.a), 006A.b) and 006A.c)*

Lab Result: *60% Chrysotile (parging cement-grey)
 1% Chrysotile (white plaster)
 <0.5% Chrysotile (grey plaster)*

Comment: *Parging insulation tested contains asbestos. Plaster contains asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L105	Alcove area to the left of the stage	~ 100 to 2,500 sf	good	-	A	Yes	Parging on brick likely extends from basement to roof (concealed).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 7 FLOORING MATERIAL

Description: *Cementitious flooring material in second floor projection room (L208).*

Colour: *Black, brown, off white*

Friable: na

Samples: 007A to C

Lab Result: *None detected*

Comment: *Flooring material tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 8 FLOOR TILE AND MASTIC

Description: Stone pattern vinyl floor tile with black and white mastic in second floor projection room.

Colour: Beige (vinyl floor tile)
 Black, off white (mastic)

Friable: No

Samples: 008A.b) (tile)
 008A to C (mastic)

Lab Result: 2% Chrysotile (tile)
 None detected (mastic)

Comment: Floor tile material tested contains asbestos. Mastic tested does not contain asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L208	Projection room	nq	poor	All	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 9 VINYL SHEET FLOORING

Description: Brown vinyl sheet flooring in second floor bathroom area (L203 / L204).

Colour: Brown, grey, off white, yellow
Friable: na

Samples: 009A to C

Lab Result: *None detected*

Comment: Vinyl sheet flooring tested does not contain asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 10 12" X 12" THIN WITH UNDERLYING THICK FLOOR TILE & MASTIC

Description: 12" x 12" thin floor tile with 12" x 12" thick floor tile layer (underneath) with black mastic.

Colour: Black, brown (tiles)
 Black (mastics)

Friable: No

Samples: 010A.a), 010A.b) & 010A.c)

Lab Result: 3% Chrysotile (thin tile)
 1% Chrysotile (mastic)
 2% Chrysotile (thick tile)
 <0.5% (mastic)

Comment: Floor tile and mastic tested contains asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L206	Second floor bathroom	~50 sf	poor	All	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 11 MASTIC (ON STAIRS)

Description: Green mastic on stair treads and risers.

Colour: Green

Friable: na

Samples: 11A to C

Lab Result: *None detected*

Comment: Mastic tested does not contain asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:
 nq - not quantified
 na - not applicable
 ns - not sampled
 sf - square feet
 lf - linear feet
 F - friable
 NF - non friable
 PFM - potentially friable material
 BCM - building component and material
 ACM - asbestos-containing material
 PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 12 FLOOR LEVELLING COMPOUND (TYPE 1)

Description: *Soft, white floor levelling compound with grey cementitious material at front entrance (L101).*

Colour: *Off white, grey, beige*
Friable: PFM

Samples: 012A.b)

Lab Result: *2% Chrysotile*

Comment: *Levelling compound tested contains asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L101	Front entrance	~ 100 sf	good	-	A	Yes	Exact location of LC is difficult to determine. May be concealed elsewhere within the front entrance (L101).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 13 FLOOR LEVELLING COMPOUND (TYPE 2) AND MASTIC

Description: *Light grey cementitious material with brown and black mastic at front entrance.*

Colour: *Light grey (cementitious material)
 Black, brown (mastic)*

Friable: No

Samples: 013A.b) (mastic)

Lab Result: *1% Chrysotile (mastic)*

Comment: *Levelling compound tested does not contain asbestos. Mastic tested contains asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L101	Front entrance	nq	-	-	A	Yes	Exact location of mastic is difficult to determine and is likely present concealed elsewhere within the front entrance (L101).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 14 FLOOR LEVELLING COMPOUND (TYPE 3) AND MASTIC

Description: *Black cementitious material with brown and black mastic at front entrance.*

Colour: *Black (tar)
 Brown (cementitious material)
 Black, brown (mastic)*

Friable: No

Samples: 014A.c)

Lab Result: *1% Chrysotile*

Comment: *Tar material tested does not contain asbestos. Cementitious material tested does not contain asbestos. Mastic tested contains asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged	Qty.	Acc.	Vis.	Comments	Recommendation
L101	Front entrance	~ 50 sf	-	-	-	A	Yes	Exact location of mastic is difficult to determine and is likely present concealed elsewhere within the front entrance (L101).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 15 FLOOR LEVELLING COMPOUND (TYPE 4)

Description: Grey cementitious material with black mastic in front entrance.

Colour: Grey (cementitious material)
 Off white (cementitious material)
 Black (mastic)

Friable: na

Samples: 015A to C

Lab Result: *None detected*

Comment: Floor levelling material tested does not contain asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
							Concealed asbestos levelling compound and mastics may be present.	Refer to BCM #12, BCM #13 and BCM #14.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 16 TAR MATERIAL (INSIDE PIPE)

Description: *Black tar material inside disconnected roof pipe in front entrance area (L101) .*

Colour: *Black*

Friable: na

Samples: 016A to C

Lab Result: *None detected*

Comment: *Tar material tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 17 CARPET UNDERLAYMENT

Description: Grey fibrous material where present under remaining carpet fragments throughout lobby and theatre area.

Colour: Grey
Friable: na

Samples: 017A to C

Lab Result: *None detected*

Comment: Carpet underlayment tested does not contain asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 18 LEVELLING COMPOUND (TYPE 5)

Description: *Where present on floor throughout theatre area (L104).*

Colour: *Beige*
Friable: na

Samples: *018A to C*

Lab Result: *None detected*

Comment: *Levelling compound tested does not contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 19 PARGING CEMENT FITTING INSULATION

Description: *Parging cement on various mechanical pipes where present throughout crawl space below front lobby area (L02).*

Colour: Grey
Friable: Yes

Samples: A001A (Reveal Report)

Lab Result: 40% Chrysotile (Reveal Report)

Comment: *Parging cement fitting insulation contains asbestos (Reveal report).*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L002	Crawl space below lobby area	nq	poor	Extensive	D	No	Refer to floor plans for approximate locations. Asbestos debris is mixed in with soil.	Remove insulation and debris in soil as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 20 THERMAL PIPE INSULATION (AIRCELL)

Description: *Aircell insulation on various mechanical pipes where present throughout crawl space below front lobby area (L02).*

Colour: Grey
Friable: Yes

Samples: A002A (Reveal Report)

Lab Result: 60% Chrysotile (Reveal Report)

Comment: *Aircell insulation contains asbestos (Reveal report).*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L002	Crawl space below lobby area	nq	poor	Extensive	D	No	Refer to floor plans for approximate locations. Asbestos debris is mixed in with soil.	Remove insulation and debris in soil as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 21 PLASTER

Description: Plaster walls, ceilings and ornamental mouldings where present throughout subject building.

Colour: Grey, white
Friable: Yes

Samples: A003A (Reveal Report)
Lab Result: 3% Chrysotile (Reveal Report)
Comment: Plaster contains asbestos (Reveal report).



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
All	Subject building	All	Fair to poor, debris	All	A	Yes	Intact plaster is non-friable. Damaged plaster and plaster debris is in a friable condition.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 22 MASTIC

Description: *Mastic on ground floor level in lobby area.*

Colour: *Brown*
Friable: No

Samples: *A005A to C & A006A (Reveal Report)*

Lab Result: *1% Chrysotile (Reveal Report)*

Comment: *Mastic material tested contains asbestos (Reveal Report).*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L102	Lobby	-	-	-	A	Yes	Mastic is presumed to be present throughout the lobby area.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 23 DRYWALL JOINT-FILL COMPOUND

Description: *Drywall joint-fill compound in projection room.*

Colour: *White, off white*

Friable: na

Samples: *A009A to C (Reveal Report)*

Lab Result: *None detected (Reveal Report)*

Comment: *Drywall joint-fill compound tested does not contain asbestos (Reveal report).*

Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 24 TEXTILE (CURTAINS)

Description: *Curtain material where present throughout theatre area.*

Colour: *Red*

Friable: na

Samples: *A010A to C (Reveal Report)*

Lab Result: *None detected (Reveal Report)*

Comment: *Textile material does not contain asbestos (Reveal report).*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
							Textile fabric is likely contaminated by asbestos plaster debris.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 25 FLEXIBLE FABRIC CONNECTORS

Description: *Fabric connectors on old ventilation unit in basement mechanical room (L03).*

Colour: *Beige*
Friable: PFM

Samples: *ns*

Lab Result: *PACM*

Comment: *Fabric connectors are known to contain asbestos.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L003	Basement	2x	poor	-	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 26 ELECTRICAL EQUIPMENT

Description: Various electrical panels, switches, breakers, fuse holders, wiring, cables, light fixtures etc., where present throughout subject building.

Colour: Varies
Friable: PFM

Samples: ns

Lab Result: PACM

Comment: Electrical equipment is presumed to contain asbestos until testing proves otherwise.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
All	Subject building	-	-	-	-	-		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 28 WIRE SHEATHING

Description: Where present on electrical wiring throughout subject building.

Colour: Varies
Friable: PFM

Samples: ns

Lab Result: PACM

Comment: Sheathing on electrical wiring is presumed to contain asbestos.



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
All	Where present throughout subject building	nq	-	-	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 29 FIBREGLASS INSULATION

Description: *Where present throughout subject building, specifically above main theatre in catwalk area.*

Colour: *Yellow, pink*
Friable: PFM

Samples: *ns*

Lab Result: *PACM*

Comment: *Though fibreglass insulation is not asbestos containing, fibreglass batts should be treated as contaminated by asbestos fibres from extensive damage to asbestos-containing plaster and debris throughout the building.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
All	Where present throughout subject building	all	-	-	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 30 CAST IRON PIPE CONNECTIONS (OAKUM)

Description: *Cast iron pipe connections (Oakum) where present throughout subject building.*

Colour: -
Friable: PFM

Samples: ns

Lab Result: PACM

Comment: *Oakum is presumed to contain asbestos until testing proves otherwise.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
All	Where present	-	-	-	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 31 DUCTWORK

Description: *Where present throughout subject building.*

Colour: -
Friable: na

Samples: ns
Lab Result: na

Comment: *Ductwork is bare throughout subject area.*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 32 TEXTURE FINISH (STUCCO)

Description: *Textured plaster throughout raised storage room at rear left corner of back stage area (L109).*

Colour: *Beige*
Friable: No

Samples: *A013A (Reveal Report)*

Lab Result: *2% Chrysotile (Reveal Report)*

Comment: *Texture finish tested contains asbestos (Reveal report).*



Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L109	Storage room	All	fair	-	A	Yes		Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 33 VINYL SHEET FLOORING

Description: *Black, red vinyl sheet flooring in open space area on second floor (L201 / L206 / L208).*

Colour: *Black, red*

Friable: na

Samples: *A007A to C (Reveal Report)*

Lab Result: *None detected (Reveal Report)*

Comment: *Vinyl sheet flooring previously tested does not contain asbestos (Reveal report). Vinyl tile was not observed to be present during Access assessment.*

Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 34 FIBROUS PAPER DEBRIS

Description: *Identified by Reveal to be present in ceiling space above balcony.*

Colour: Grey
Friable: PFM

Samples: A008A (Reveal Report)

Lab Result: 80% Chrysotile

Comment: *Fibrous paper debris previously tested contains asbestos (Reveal report). The material is suspected to have been removed during a past abatement in the area.*

Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
L303 L304	Open space above balcony area where scaffolding is currently located	-	-	-	-	-	Grey fibrous material may be cocnealed elsewhere.	If encountered, remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 35 BEIGE TEXTILE UNDERPAD

Description: *Beige textile underpad in main theatre area.*

Colour: *Beige*

Friable: na

Samples: *A011A to C (Reveal Report)*

Lab Result: *None detected (Reveal Report)*

Comment: *Textile underpad previously tested does not contain asbestos (Reveal Report).*

Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

Building Component and Materials (BCM) Inventory

BCM # 36 RED DECORATIVE TEXTILE

Description: *Red decorative textile in main theatre area.*

Colour: *Red, beige*

Friable: na

Samples: *A012A to C (Reveal Report)*

Lab Result: *None detected (Reveal Report)*

Comment: *Textile material previously tested does not contain asbestos (Reveal Report).*

Summary of ACMs and PACMs

Location #	Area Description	Quantity	Condition	Damaged Qty.	Acc.	Vis.	Comments	Recommendation
								No action required.

Accessibility (Acc.)

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility (Vis.)

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
- No - Suspect material can only be viewed if access hatches are opened or ceiling tiles lifted.

Notes:

- nq - not quantified
- na - not applicable
- ns - not sampled
- sf - square feet
- lf - linear feet
- F - friable
- NF - non friable
- PFM - potentially friable material
- BCM - building component and material
- ACM - asbestos-containing material
- PACM - presumed asbestos-containing material

APPENDIX 4

Summary of Confirmed and Presumed
Asbestos-Containing Materials

Summary of Asbestos-Containing and Presumed Asbestos-Containing Materials

Loc. #	Loc. Description	BCM #	ACM Type	ACM Description	ACM Colour	Total Quantity	Cond.	Damaged Quantity	Acc. Vis.	Fri?	Comments	Recommendation
All	Where present	30	Cast Iron Pipe Connections (Oakum)	Cast iron pipe connections (Oakum) where present throughout subject building.	-	-	-	-	A Yes	PFM	Oakum is presumed to contain asbestos until testing proves otherwise.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
All	Subject building	26	Electrical Equipment	Various electrical panels, switches, breakers, fuse holders, wiring, cables, light fixtures etc., where present throughout subject building.	Varies	-	-	-	- -	PFM	Electrical equipment is presumed to contain asbestos until testing proves otherwise.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
All	Where present throughout subject building	29	Fibreglass Insulation	Where present throughout subject building, specifically above main theatre in catwalk area.	Yellow, pink	all	-	-	A Yes	PFM	Though fibreglass insulation is not asbestos containing, fibreglass batts should be treated as contaminated by asbestos fibres from extensive damage to asbestos-containing plaster and debris throughout the building.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility

- A - Areas of the building within reach (from floor level) of all building users
- B - Frequently entered maintenance areas within reach of maintenance staff, without the need for a ladder
- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

Visibility

- Yes - Suspect material is visible without opening hatches or lifting ceiling tiles
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Notes:

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- F - friable
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- Acc. - accessibility
- Vis. - visibility
- Fru, - friable

Summary of Asbestos-Containing and Presumed Asbestos-Containing Materials

Loc. #	Loc. Description	BCM #	ACM Type	ACM Description	ACM Colour	Total Quantity	Cond.	Damaged Quantity	Acc.	Vis.	Fri?	Comments	Recommendation
All	Subject building	21	Plaster	Plaster walls, ceilings and ornamental mouldings where present throughout subject building.	Grey, white	All	Fair to poor, debris	All	A	Yes	Yes	Plaster contains asbestos (Reveal report).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
All	Where present throughout subject building	28	Wire Sheathing	Where present on electrical wiring throughout subject building.	Varies	nq	-	-	A	Yes	PFM	Sheathing on electrical wiring is presumed to contain asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L002	Crawl space below lobby area	19	Parging Cement Fitting Insulation	Parging cement on various mechanical pipes where present throughout crawl space below front lobby area (L02).	Grey	nq	poor	Extensive	D	No	Yes	Parging cement fitting insulation contains asbestos (Reveal report).	Remove insulation and debris in soil as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L002	Crawl space below lobby area	20	Thermal Pipe Insulation (Aircell)	Aircell insulation on various mechanical pipes where present throughout crawl space below front lobby area (L02).	Grey	nq	poor	Extensive	D	No	Yes	Aircell insulation contains asbestos (Reveal report).	Remove insulation and debris in soil as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility

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- C - Areas of the building above 2.4 m where use of a ladder is required to reach the asbestos
- D - Areas of the building behind inaccessible solid ceiling systems, walls, or mechanical equipment, etc., where demolition of the ceiling, wall, or equipment, etc., is required to reach the asbestos

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Summary of Asbestos-Containing and Presumed Asbestos-Containing Materials

Loc. #	Loc. Description	BCM #	ACM Type	ACM Description	ACM Colour	Total Quantity	Cond.	Damaged Quantity	Acc.	Vis.	Fri?	Comments	Recommendation
L003	Basement	25	Flexible Fabric Connectors	Fabric connectors on old ventilation unit in basement mechanical room (L03).	Beige	2x	poor	-	A	Yes	PFM	Fabric connectors are known to contain asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L015	Walls	2	Black Coating over Cementitious Parging	Black coating on lower half of walls covering grey cementitious parging in basement room below stage (L15).	Grey (cementitious parging) Black (coating)	~150 sf	poor	All	A	Yes	PFM	Although cementitious material contains asbestos at less than the O. Reg. 278/05 threshold of 0.5%, as a safety precaution it is recommended to be managed as an asbestos-containing material. Black tar material tested does not contain asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L101	Front entrance	12	Floor Levelling Compound (Type 1)	Soft, white floor levelling compound with grey cementitious material at front entrance (L101).	Off white, grey, beige	~ 100 sf	good	-	A	Yes	PFM	Levelling compound tested contains asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

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Summary of Asbestos-Containing and Presumed Asbestos-Containing Materials

Loc. #	Loc. Description	BCM #	ACM Type	ACM Description	ACM Colour	Total Quantity	Cond.	Damaged Quantity	Acc.	Vis.	Fri?	Comments	Recommendation
L101	Front entrance	13	Floor Levelling Compound (Type 2) and Mastic	Light grey cementitious material with brown and black mastic at front entrance.	Light grey (cementitious material) Black, brown (mastic)	nq	-	-	A	Yes	No	Levelling compound tested does not contain asbestos. Mastic tested contains asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L101	Front entrance	14	Floor Levelling Compound (Type 3) and Mastic	Black cementitious material with brown and black mastic at front entrance.	Black (tar) Brown (cementitious material) Black, brown (mastic)	~ 50 sf	-	-	A	Yes	No	Tar material tested does not contain asbestos. Cementitious material tested does not contain asbestos. Mastic tested contains asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L102	Lobby	22	Mastic	Mastic on ground floor level in lobby area.	Brown	-	-	-	A	Yes	No	Mastic material tested contains asbestos (Reveal Report).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L105	Alcove area to the left of the stage	5	Parging Insulation Type 2 on Brick (Chimney)	Soft, grey powdery parging cement overtop of brick (Alabastine).	Grey	~ 100 to 2,500 sf	-	-	A	Yes	Yes	Parging cement tested contains asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

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- Fru, - friable

Summary of Asbestos-Containing and Presumed Asbestos-Containing Materials

Loc. #	Loc. Description	BCM #	ACM Type	ACM Description	ACM Colour	Total Quantity	Cond.	Damaged Quantity	Acc.	Vis.	Fri?	Comments	Recommendation
L105	Alcove area to the left of the stage	6	Parging Insulation Type 3 on Brick (Chimney)	Hard, cementitious material on Alabastine brick.	Grey, white, grey	~ 100 to 2,500 sf	good	-	A	Yes	Yes	Parging insulation tested contains asbestos. Plaster contains asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L109	Storage room	32	Texture Finish (Stucco)	Textured plaster throughout raised storage room at rear left corner of back stage area (L109).	Beige	All	fair	-	A	Yes	No	Texture finish tested contains asbestos (Reveal report).	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L206	Second floor bathroom	10	12" x 12" Thin with Underlying Thick Floor Tile & Mastic	12" x 12" thin floor tile with 12" x 12" thick floor tile layer (underneath) with black mastic.	Black, brown (tiles) Black (mastics)	~50 sf	poor	All	A	Yes	No	Floor tile and mastic tested contains asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.
L208	Projection room	8	Floor Tile and Mastic	Stone pattern vinyl floor tile with black and white mastic in second floor projection room.	Beige (vinyl floor tile) Black, off white (mastic)	nq	poor	All	A	Yes	No	Floor tile material tested contains asbestos. Mastic tested does not contain asbestos.	Remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

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- PFM - potentially friable material
- ACM - asbestos-containing material
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- Acc. - accessibility
- Vis. - visibility
- Fru, - friable

Summary of Asbestos-Containing and Presumed Asbestos-Containing Materials

Loc. #	Loc. Description	BCM #	ACM Type	ACM Description	ACM Colour	Total Quantity	Cond.	Damaged Quantity	Acc. Vis.	Fri?	Comments	Recommendation
L303 L304	Open space above balcony area where scaffolding is currently located	34	Fibrous Paper Debris	Identified by Reveal to be present in ceiling space above balcony.	Grey	-	-	-	-	-	PFM Fibrous paper debris previously tested contains asbestos (Reveal report). The material is suspected to have been removed during a past abatement in the area.	If encountered, remove as part of the overall O. Reg. 278/05 Type 3 abatement operations within the building.

Accessibility

- A - Areas of the building within reach (from floor level) of all building users
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Notes:

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- na - not applicable
- ns - not sampled
- F - friable
- NF - non friable
- PFM - potentially friable material
- ACM - asbestos-containing material
- BCM - building component and material
- Acc. - accessibility
- Vis. - visibility
- Fru, - friable

APPENDIX 5

Laboratory Analytical Report – Asbestos



Laboratory Analysis Report

To:

Andy Andriotis
 Access Environmental Solutions
 775 Lucerne Avenue
 Waterloo, ON
 N2T 2Y3

EMC LAB REPORT NUMBER: A96668

Job/Project Name: 108 James St. N. Hamilton

Analysis Method: Polarized Light Microscopy – EPA 600

Date Received: Oct 10/23

Date Analyzed: Oct 18/23

Analysts: Chengming Li & Elizabeth Mierzynski

Reviewed By: Malgorzata Sybydlo

Job No: 10113.002

Number of Samples: 54

Date Reported: Oct 19/23

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
001A	A96668-1	Parging Material (B-12)	2 Phases: a) White, cementitious material b) Grey, cementitious material	ND ND		100 100
001B	A96668-2	Parging Material (B-12)	2 Phases: a) White, cementitious material b) Grey, cementitious material	ND ND		100 100
001C	A96668-3	Parging Material (B-12)	2 Phases: a) White, cementitious material b) Grey, cementitious material	ND ND		100 100
002A	A96668-4	Black Tar Material on Cementitious Coating (B-12)	2 Phases: a) Grey, cementitious material b) Black, paint	Chrysotile ND	<0.5	100 100
002B	A96668-5	Black Tar Material on Cementitious Coating (B-12)	2 Phases: a) Grey, cementitious material b) Black, paint	Chrysotile ND	<0.5	100 100
002C	A96668-6	Black Tar Material on Cementitious Coating (B-12)	2 Phases: a) Grey, cementitious material b) Black, paint	Chrysotile ND	<0.5	100 100
003A	A96668-7	Cementitious Coating (B-14)	2 Phases: a) Off white, textured cementitious material b) Grey, cementitious material	ND ND		100 100



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A96668
Client's Job/Project Name/No.: 10113.002
Analysts: Chengming Li & Elizabeth Mierzynski

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
003B	A96668-8	Cementitious Coating (B-14)	2 Phases:			
			a) Off white, textured cementitious material	ND		100
003C	A96668-9	Cementitious Coating (B-14)	2 Phases:			
			a) Off white, textured cementitious material	ND		100
004A	A96668-10	Parging Insulation Type 1 on Brick (Chimney)	b) Grey, cementitious material	ND		100
			Light grey, cementitious material	ND		100
004B	A96668-11	Parging Insulation Type 1 on Brick (Chimney)	2 Phases:			
			a) Off white, textured cementitious material	ND		100
004C	A96668-12	Parging Insulation Type 1 on Brick (Chimney)	b) Grey, cementitious material	ND		100
			Light grey, cementitious material	ND		100
005A	A96668-13	Parging Insulation Type 2 on Brick (Chimney)	Grey, parging cement	Chrysotile	60	40
005B	A96668-14	Parging Insulation Type 2 on Brick (Chimney)	NA	NA		
005C	A96668-15	Parging Insulation Type 2 on Brick (Chimney)	NA	NA		
006A	A96668-16	Parging Insulation Type 3 on Brick (Chimney)	3 Phases:			
			a) Grey, parging cement	Chrysotile	60	40
			b) White, plaster	Chrysotile	1	99
			c) Grey, plaster	Chrysotile	<0.5	100
006B	A96668-17	Parging Insulation Type 3 on Brick (Chimney)	NA	NA		



Laboratory Analysis Report

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Client's Job/Project Name/No.: 10113.002
Analysts: Chengming Li & Elizabeth Mierzynski

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
006C	A96668-18	Parging Insulation Type 3 on Brick (Chimney)	NA	NA		
007A	A96668-19	Flooring Material (2-07)	3 Phases: a) Black, mastic b) Brown, cementitious material c) Off white, cementitious material	ND ND ND		100 100 100
007B	A96668-20	Flooring Material (2-07)	3 Phases: a) Black, mastic b) Brown, cementitious material c) Off white, cementitious material	ND ND ND		100 100 100
007C	A96668-21	Flooring Material (2-07)	3 Phases: a) Beige, cementitious material b) Black, mastic c) Brown, cementitious material d) Off white, cementitious material	ND ND ND ND		100 100 100 100
008A	A96668-22	Floor Tile and Mastic (2-07)	3 Phases: a) Off white, mastic b) Beige, vinyl floor tile c) Black, mastic	ND Chrysotile ND	2	100 98 100
008B	A96668-23	Floor Tile and Mastic (2-07)	2 Phases: a) NA b) Black, mastic	NA ND		100
008C	A96668-24	Floor Tile and Mastic (2-07)	2 Phases: a) NA b) Black, mastic	NA ND		100
009A	A96668-25	Sheet Flooring (2-01)	4 Phases:			



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A96668
Client's Job/Project Name/No.: 10113.002
Analysts: Chengming Li & Elizabeth Mierzynski

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)			
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material	
			a) Brown, vinyl flooring b) Brown, cellulose backing c) Grey, paper d) Off white, cementitious material	ND ND ND ND		10 90 90 100	90 10 10 100
009B	A96668-26	Sheet Flooring (2-01)	5 Phases: a) Yellow, mastic b) Brown, vinyl flooring c) Brown, cellulose backing d) Grey, paper e) Off white, cementitious material	ND ND ND ND ND			100 90 10 10 100
009C	A96668-27	Sheet Flooring (2-01)	5 Phases: a) Yellow, mastic b) Brown, vinyl flooring c) Brown, cellulose backing d) Grey, paper e) Off white, cementitious material	ND ND ND ND ND		10 90 90	100 90 10 10 100
010A	A96668-28	12x12 Thin and underlying Thick Floor Tiles with Black Mastic (2-02)	4 Phases: a) Black, vinyl floor tile b) Black, mastic c) Brown, vinyl floor tile d) Black, mastic	Chrysotile Chrysotile Chrysotile Chrysotile	3 1 2 <0.5	10	97 99 88 100
010B	A96668-29	12x12 Thin and underlying Thick Floor Tiles with Black Mastic (2-02)	4 Phases: a) NA b) NA c) NA c) Black, mastic	NA NA NA ND			100



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A96668
Client's Job/Project Name/No.: 10113.002
Analysts: Chengming Li & Elizabeth Mierzynski

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
010C	A96668-30	12x12 Thin and underlying Thick Floor Tiles with Black Mastic (2-02)	4 Phases: a) NA b) NA c) NA d) Black, mastic	NA NA NA ND		100
011A	A96668-31	Mastic (on stairs 2-01)	Green, caulking	ND	1	99
011B	A96668-32	Mastic (on stairs 2-01)	2 Phases: a) Green, caulking b) Beige and brown, cementitious material	ND ND	1	99 100
011C	A96668-33	Mastic (on stairs 2-01)	2 Phases: a) Green, caulking b) Beige, cementitious material	ND ND	1	99 100
012A	A96668-34	Floor Levelling Compound – white (1-01)	2 Phases: a) Off white, cementitious material b) Grey and beige, cementitious material	ND Chrysotile	2	100 98
012B	A96668-35	Floor Levelling Compound – white (1-01)	NA	NA		
012C	A96668-36	Floor Levelling Compound – white (1-01)	NA	NA		
013A	A96668-37	Floor Levelling Compound – grey (1-01)	2 Phases: a) Light grey, cementitious material b) Brown and black, mastic	ND Chrysotile	1	100 99



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A96668
Client's Job/Project Name/No.: 10113.002
Analysts: Chengming Li & Elizabeth Mierzynski

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
013B	A96668-38	Floor Levelling Compound – grey (1-01)	NA	NA		
013C	A96668-39	Floor Levelling Compound – grey (1-01)	NA	NA		
014A	A96668-40	Floor Levelling Compound – black (1-01)	3 Phases: a) Black, tar b) Brown, cementitious material c) Black and brown, mastic	ND ND Chrysotile	1	100 100 99
014B	A96668-41	Floor Levelling Compound – black (1-01)	NA	NA		
014C	A96668-42	Floor Levelling Compound – black (1-01)	NA	NA		
015A	A96668-43	Floor Levelling Compound – dark grey (1-01)	3 Phases: a) Grey, cementitious material b) Off white, cementitious material c) Black, mastic	ND ND ND	2	100 98 100
015B	A96668-44	Floor Levelling Compound – dark grey (1-01)	4 Phases: a) Grey, cementitious material b) Off white, cementitious material c) White, cementitious material d) Black, mastic	ND ND ND ND	2	100 98 100 100
015C	A96668-45	Floor Levelling Compound – dark grey (1-01)	3 Phases: a) Grey, cementitious material b) Off white, cementitious material c) Black, mastic	ND ND ND	2	100 98 100
016A	A96668-46	Tar-Pipe (1-01)	Black, tar	ND		100



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A96668
Client's Job/Project Name/No.: 10113.002
Analysts: Chengming Li & Elizabeth Mierzynski

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
016B	A96668-47	Tar-Pipe (1-01)	Black, tar	ND		100
016C	A96668-48	Tar-Pipe (1-01)	Black, tar	ND		100
017A	A96668-49	Carpet Underlayment (1-02)	2 Phases: a) Gry, fibrous material b) Beige, cementitious material	ND ND	60 2	40 98
017B	A96668-50	Carpet Underlayment (1-02)	Grey, fibrous material	ND	60	40
017C	A96668-51	Carpet Underlayment (1-02)	Grey, fibrous material	ND	60	40
018A	A96668-52	Levelling Compound (1-04)	Beige, cementitious material	ND		100
018B	A96668-53	Levelling Compound (1-04)	Beige, cementitious material	ND		100
018C	A96668-54	Levelling Compound (1-04)	Beige, cementitious material	ND		100

Note:

1. Bulk samples are analyzed using Polarized Light Microscopy (PLM) and dispersion staining techniques. The analytical procedures are in accordance with EPA 600/R-93/116 method.
2. The results are only related to the samples analyzed. **ND** = None Detected (no asbestos fibres were observed), **NA** = Not Analyzed (analysis stopped due to a previous positive result).
3. This report may not be reproduced, except in full without the written approval of EMC Scientific Inc. This report may not be used by the client to claim product endorsement by NVLAP or any other agency of the U.S. Government.
4. The Ontario Regulatory Threshold for asbestos is 0.5%. The limit of quantification (LOQ) is 0.5%.



- Investigate
- Evaluate
- Reveal

Hazardous Building Materials Assessment

108 James Street North, Hamilton

Prepared for:

Metro Contract Management Inc

272 Rosslyn Avenue North
Hamilton, ON L8L 7R1

Attention: Laura Upson

April 26, 2017



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EXECUTIVE SUMMARY

Metro Contract Management Inc. (Client) retained Reveal Environmental Inc. (Reveal) to conduct a hazardous building materials assessment at 108 James Street North, Hamilton, Ontario.

The objective of the assessment was to identify specified hazardous building materials in preparation for building renovation. The results of this assessment are intended for use with a properly developed scope of work and performance specification.

The assessed area included all common areas of the buildings.

SUMMARY OF FINDINGS

Hazardous building materials were confirmed, or are presumed to be present as follows within the survey area:

Table 1 - Executive Summary

Asbestos:	<ul style="list-style-type: none"> • Plaster wall and ceiling finishes • Parging cement insulation on pipe fittings and mechanical equipment • Aircell pipe insulation on pipes • Texture finish • Brown mastic
Lead:	<ul style="list-style-type: none"> • Lead is present in paints throughout the building.
Crystalline Silica:	<ul style="list-style-type: none"> • Silica is present throughout the building.
Mercury:	<ul style="list-style-type: none"> • No mercury-containing materials were found
Mould:	<ul style="list-style-type: none"> • Mould growth is present on the majority of textiles throughout the building.

THIS EXECUTIVE SUMMARY FORMS PART OF THE OVERALL REPORT AND IS NOT TO BE USED INDEPENDENT OF THE ENTIRE REPORT. THIS SUMMARY IS SUBJECT TO ALL REPORT LIMITATIONS.



1.0 INTRODUCTION

This report is meant to fulfil the owners requirements under Section 30 of the Ontario Occupational Health and Safety Act, Revised Statutes of Ontario 1990, (as amended). The building owner, or the owners representative must provide this report to constructors bidding on the project work.

Constructors must also provide this report to contractors and subcontractors prior to requesting bids.

This report also meets the requirements of Section 10 of Ontario Regulation 278/05, Designated Substance – Asbestos on Construction Projects and in Building and Repair Operations, which requires that owners report on the presence of asbestos within the construction areas to contractors prior to requesting bids.

The objective of the assessment was to identify specified hazardous building materials in preparation for renovation work. This assessment is intended to be used for pre-construction purposes only, and may not provide sufficient detail for long term management of hazardous materials as required by Health and Safety regulations. The results of this assessment are intended for use with a properly developed scope of work and performance specification.

1.1 Assessment Scope

The purpose of the assessment was to identify the type and location of specified hazardous materials used in the construction of the building and building finishes. The assessed area included all accessible areas.

The following hazardous materials and Designated Substances were included in the assessment:

- Asbestos
- Lead
- Mercury
- Silica
- Polychlorinated Biphenyls
- Mould

The following Designated Substances were not included in the assessment because they are not typically found in buildings and building finishes:

- Arsenic
- Acrylonitrile
- Benzene



- Coke oven emissions
- Ethylene oxide
- Isocyanates
- Vinyl chloride monomer

2.0 ASSESSMENT AREA CONSTRUCTION

All three buildings were constructed at the same time in approximately the 1950s.

Table 2- Assessment Area Construction

System	Construction
Floors	Vinyl Tile, Vinyl Sheet, Concrete
Ceilings	Plaster
Walls	Plaster, Drywall
Structure	Wood
HVAC	Not operational
Exterior	Brick

3.0 FINDINGS

3.1 Asbestos

Parging cement pipe insulation, containing chrysotile asbestos (samples A001A-C) is present on pipe fittings throughout the building. Parging cement in poor condition is present in B-01 Crawl Space, 1-03 Shaft, and 3-01 Ceiling Space. Remaining parging cement is in good condition. Parging cement is friable.

Parging cement mechanical insulation, containing chrysotile asbestos (samples A014A-C) is present on breeching in B-13 Mechanical Room. There is 20 square feet of debris in poor condition on the floor and mechanical equipment. The remaining parging cement is in good condition. Parging cement is friable.

Aircell pipe insulation, containing chrysotile asbestos (samples A002A-C) is present on pipe straights throughout the building. Aircell in poor condition is present in B-01 Crawl Space, 1-03 Shaft, and 3-01 Ceiling Space. Remaining aircell cement is in good condition. Aircell cement is friable.

Plaster finish, containing chrysotile asbestos in the finish coat (samples A003A-G), is present on walls and ceiling throughout the building. Plaster is in poor condition throughout the facility as debris on the floors. Remaining plaster on walls and ceiling is non-friable and is in good condition.



Fibrous paper, containing chrysotile asbestos (samples A008A-C), is present in location 3-01 Ceiling Space above the Second Floor Balcony accessible through a ceiling opening accessible by ladder. The paper is friable and is in poor condition.

Non-asbestos 12" beige black vinyl floor tiles are present throughout the building (samples A004A-C).

Non-asbestos black mastic is present on floors throughout the building (samples A005A-C).

Textured finish is present as a ceiling finish in the 1-09 Storage Room (samples A013A-C). Textured finish is friable and is in good condition.

Non-asbestos brown black mastic is present behind wall mounted items (samples A006A-C).

Non-asbestos black vinyl sheet flooring is present on the Second Floor (samples A007A-C).

Non-asbestos drywall joint compound is present throughout the building in limited quantities (samples A009A-C).

Non- asbestos textile wall coverings and curtains are present throughout the Theater Area (samples A0010A-C, A011A-C, and A012A-C).

The following building materials are historically made with asbestos, but were not observed or were not sampled due to the destructive nature of the sampling procedure during this assessment and are not mentioned in this report or are assumed to contain asbestos:

- Spray-applied fireproofing or thermal insulation
- Vermiculite
- Acoustic ceiling tiles
- Firestopping
- Sealants, Caulking, and Putty
- Roofing materials

3.2 Lead

Lead paint samples were collected as follows

Sample Number	Color	Location	Result (%)
L001	Red	1-01 Entrance	1.86
L002	Blue	1-01 Entrance	2.34



L003	Brown	1-02 Vestibule	0.766
L004	Pink	2-01 Open Area	3.03
L005	Green	2-02 Washroom	3.26
L006	Light brown	2-04 Room	3.67
L007	Black	2-05 Balcony	<0.0005
L008	Beige	1-04 Theater	0.0358
L009	White	1-10 Corridor	1.55
L010	Orange	B-06 Corridor	2.21
L011	Grey	B-06 Corridor	0.076

Lead may be present in electrical components, including wiring connectors, fibre optic cable sheathing, grounding conductors, and solder

3.3 Mercury

No devices containing mercury were observed.

3.4 Silica

Crystalline silica is a assumed component of the poured concrete, masonry, mortar and ceramic tiles present throughout the building.

3.5 Polychlorinated Biphenyls

PBS's are presumed to be present in the exterior caulking and roofing materials.

3.6 Mould

Mould growth is present on textiles throughout the Theater area. There are multiple building envelope failures which has allowed water to infiltrate the building. The HVAC is not operational and condensation has formed on the textiles during the weather transition in spring.

4.0 RECOMMENDATIONS

4.1 General



Hazardous Buildings Materials Assessment
108 James Street North, Hamilton, ON

1. Prepare plans and specifications for hazardous material removal which will or may be affected by the planned work.
2. Provide this report to the contractor prior to bidding or commencing work.
3. If abatement work is required, retain a qualified consultant to specify, inspect and verify the successful removal of hazardous materials.
4. If asbestos materials are removed as part of this project, update the asbestos inventory upon completion of the abatement and removal of asbestos-containing materials.

4.2 Renovation Work

The following recommendations are made regarding demolition or renovation involving the hazardous materials identified.

4.2.1 Asbestos

Restrict access to the building until all asbestos debris has been remediated following Type 2 Precautions. Maintain restricted access into areas where the cleanup of asbestos debris cannot be immediately performed.

Remove all asbestos-containing materials that may be disturbed by the work or during the work.

Asbestos-containing materials must be disposed of at a landfill approved to accept asbestos waste.

4.2.2 Lead

Disturbance of lead in paint and coatings (or other materials) during maintenance activities may result in over-exposure to lead dust or fumes. The need for work procedures, engineering controls and personal protective equipment will need to be assessed on a project-by-project basis and must comply with provincial standards or guidelines. Performing an exposure assessment during work that disturbs lead in paints and coatings may be able to alleviate the use of some of the precautions specified by these standards or guidelines.

4.2.3 Silica

Disturbance of silica-containing products may result in excessive exposures to airborne silica, especially if performed indoors and dry. Cutting, grinding, drilling or demolition of materials containing silica



Hazardous Buildings Materials Assessment
108 James Street North, Hamilton, ON

should be completed only with proper respiratory protection and other worker safety precautions that comply with provincial standards or guidelines.

4.2.6 Mould

Remove mouldy textiles in the Theater Area following procedures that comply with provincial guidelines.

5.0 Closure

Should you have any questions or concerns regarding this report, please do not hesitate to contact the author.

Prepared by:

Thong Nguyen, EP
Reveal Environmental Inc
tnguyen@RevealENV.com
416.500.3992

6.0 LIMITATIONS

The work performed by Reveal was conducted in accordance with generally accepted engineering or scientific practices current in this geographical area at the time the work was performed. No warranty is either expressed or implied by furnishing written reports or findings. The Client acknowledges that subsurface and concealed conditions may vary from those encountered or inspected. Reveal can only comment on the environmental conditions observed on the date(s) the survey is performed. The work is limited to those materials or areas of concern identified by the Client or outlined in our proposal. Other areas of concern may exist but were not investigated within the scope of this assignment.

Reveal makes no other representations whatsoever, including those concerning the legal significance of its findings or as to other legal matters touched on in this report, including, but not limited to, ownership of any property, or the application of any law to the facts set forth herein. With respect to regulatory compliance issue, regulatory statutes are subject to interpretation and these interpretations may change over time. Reveal accepts no responsibility for consequential financial effects on transactions or property values, or requirements for follow-up actions and costs.



Hazardous Buildings Materials Assessment
108 James Street North, Hamilton, ON

The liability of Reveal or our officers, directors, shareholders or staff will be limited to the lesser of the fees paid or actual damages incurred by the Client. Reveal will not be responsible for any consequential or indirect damages. Reveal will only be liable for damages resulting from the negligence of Reveal. Reveal will not be liable for any losses or damage if the Client has failed, within a period of two years following the date upon which the claim is discovered (Claim Period), to commence legal proceedings against Reveal to recover such losses or damage unless the laws of the jurisdiction which governs the Claim Period which is applicable to such claim provides that the applicable Claim Period is greater than two years and cannot be abridged by the contract between the Client and Reveal, in which case the Claim Period shall be deemed to be extended by the shortest additional period which results in this provision being legally enforceable.

Information provided by Reveal is intended for Client use only. Reveal will not provide results or information to any party unless disclosure by Reveal is required by law. Any use by a third party of reports or documents authored by Reveal or any reliance by a third party on or decisions made by a third party based on the findings described in said documents, is the sole responsibility of such third parties. Reveal accepts no responsibility for damages suffered by any third party as a result of decisions made or actions conducted. No other warranties are implied or expressed.

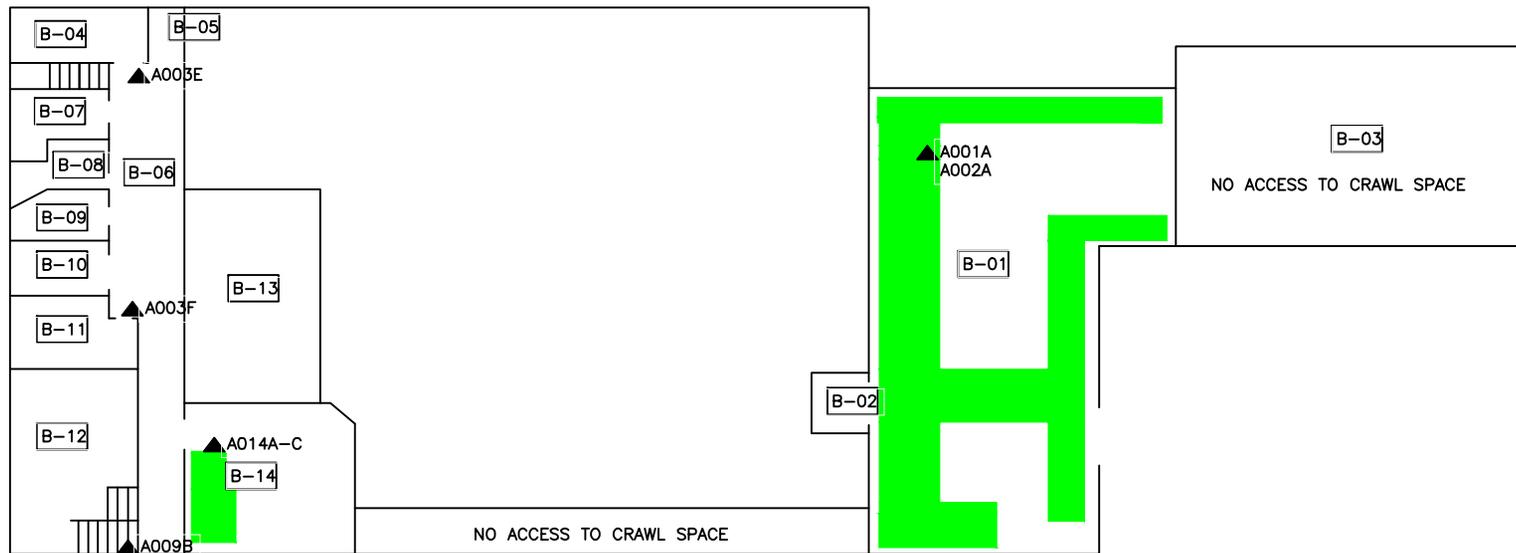
7.0 References

- EACO. (2014). *EACO Lead Guideline for Construction, Renovation, Maintenance or Repair*. Toronto: EACO.
- Ministry of Labour. (2005). *Ontario Regulation 278/05 Designated Substance - Asbestos on Construction Projects and in Buildings and Repair Operations*. Toronto: Ministry of Labour.
- Ontario Environmental Safety Network. (2008). *Asbestos Assessment within Niagara Regional Housing Facility A12C 436, 438, 440 Scott Street, St. Catharines, Ontario*. St. Catharines: Ontario Environmental Safety Network.

APPENDIX I

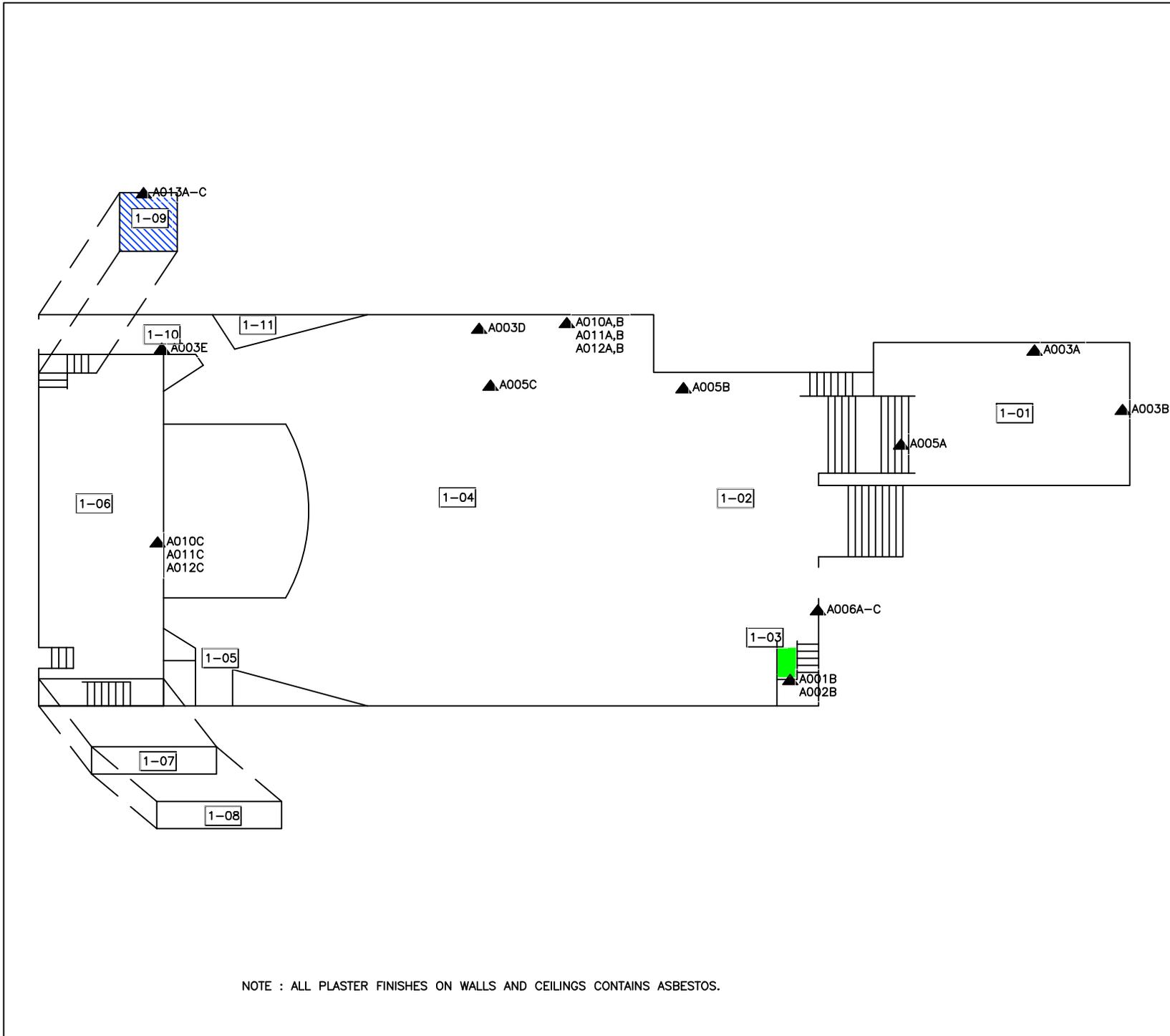
Drawings

LEGEND	
▲	ASBESTOS SAMPLE
○	LEAD SAMPLE
■	ASBESTOS MECHANICAL INSULATION
▨	ASBESTOS TEXTURED FINISH



NOTE : ALL PLASTER FINISHES ON WALLS AND CEILINGS CONTAINS ASBESTOS.

PROJECT NAME	2017 ASBESTOS ASSESSMENT
PROJECT ADDRESS	108 JAMES STREET NORTH HAMILTON, ONTARIO
DRAWING NAME	BASEMENT
DATE	APRIL 26, 2017
SCALE	NOT TO SCALE
SHEET	A1



LEGEND	
▲	ASBESTOS SAMPLE
○	LEAD SAMPLE
■	ASBESTOS MECHANICAL INSULATION
▨	ASBESTOS TEXTURED FINISH

Reveal
 Environmental Inc.

PROJECT NAME
 2017 ASBESTOS ASSESSMENT

PROJECT ADDRESS
 108 JAMES STREET NORTH
 HAMILTON, ONTARIO

DRAWING NAME
 GROUND FLOOR

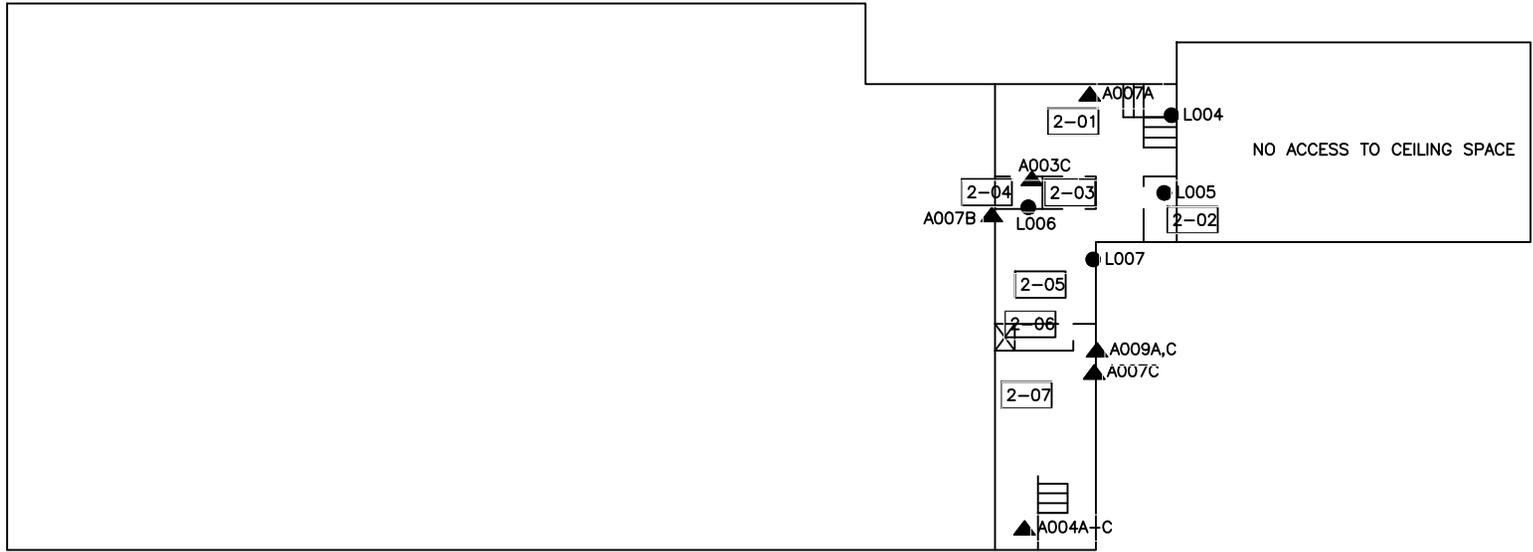
DATE
 APRIL 26, 2017

SCALE
 NOT TO SCALE

SHEET
 A2

NOTE : ALL PLASTER FINISHES ON WALLS AND CEILINGS CONTAINS ASBESTOS.

- LEGEND
- ▲ ASBESTOS SAMPLE
 - LEAD SAMPLE
 - ASBESTOS MECHANICAL INSULATION
 - ▨ ASBESTOS TEXTURED FINISH

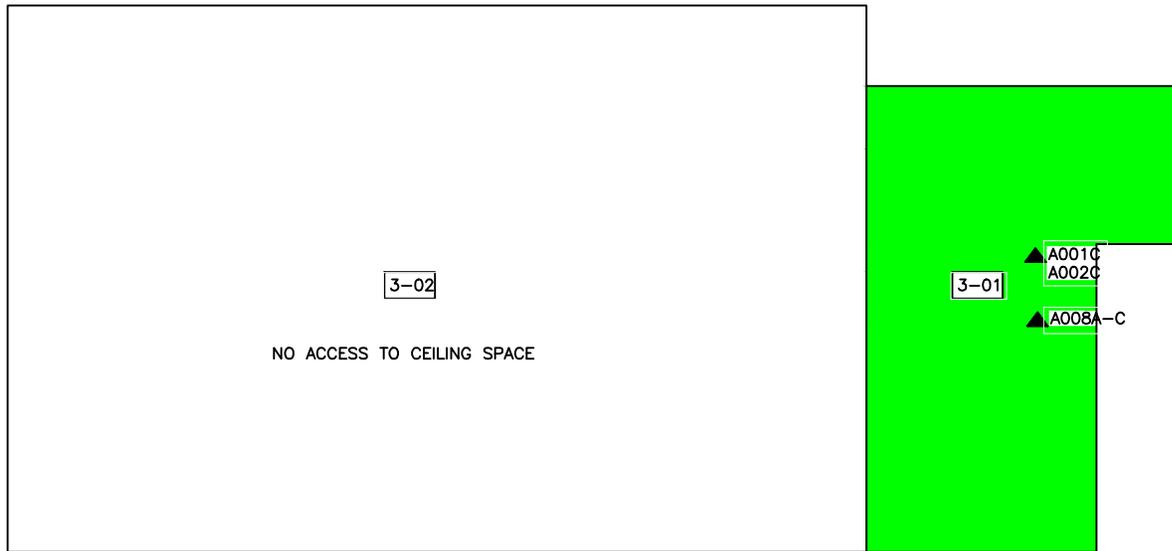


NOTE : ALL PLASTER FINISHES ON WALLS AND CEILINGS CONTAINS ASBESTOS.

Reveal
 Environmental Inc.

PROJECT NAME	2017 ASBESTOS ASSESSMENT
PROJECT ADDRESS	108 JAMES STREET NORTH HAMILTON, ONTARIO
DRAWING NAME	SECOND FLOOR
DATE	APRIL 26, 2017
SCALE	NOT TO SCALE
SHEET	A3

LEGEND
▲ ASBESTOS SAMPLE
○ LEAD SAMPLE
■ ASBESTOS MECHANICAL INSULATION
▨ ASBESTOS TEXTURED FINISH



3-02

NO ACCESS TO CEILING SPACE

3-01

▲ A001C
 ▲ A002C

▲ A008A-C

NOTE : ALL PLASTER FINISHES ON WALLS AND CEILINGS CONTAINS ASBESTOS.



PROJECT NAME	2017 ASBESTOS ASSESSMENT
PROJECT ADDRESS	108 JAMES STREET NORTH HAMILTON, ONTARIO
DRAWING NAME	CATWALK\CEILING SPACE
DATE	APRIL 26, 2017
SCALE	NOT TO SCALE
SHEET	A4

APPENDIX II

Lab Sample Results



Laboratory Analysis Report

To:

Laura Upson
 Metro Contract Management
 272 Rosslyn Avenue N
 Hamilton, Ontario
 L8L 7R1

EMC LAB REPORT NUMBER: A30128r*
Job/Project Name: 108 James Street North, Hamilton
Analysis Method: Polarized Light Microscopy – EPA 600
Date Received: Mar 27/17 **Date Analyzed:** Apr 3/17
Analyst: Kathy Feick, *Analyst*
Reviewed By: Malgorzata Sybydlo, *Laboratory Manager*

Job No:
Number of Samples: 46
Date Reported: Apr 3/17

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
A001A	A30128-1	Parging cement, B-01 Crawlspace	Grey, parging cement	Chrysotile	40	60
A001B	A30128-2	Parging cement, 1-03 Pipe space	NA	NA		
A001C	A30128-3	Parging cement, 3-01 Ceiling space	NA	NA		
A002A	A30128-4	Aircell, B-01 Crawlspace	Grey, fibrous material	Chrysotile	60	20
A002B	A30128-5	Aircell, 1-03 Pipe space	NA	NA		
A002C	A30128-6	Aircell, 3-01 Ceiling space	NA	NA		
A003A	A30128-7	Plaster, 1-01 Entrance	2 Phases: a) Grey, plaster b) White, plaster	ND Chrysotile	3	1 99
A003B	A30128-8	Plaster, 1-01 Entrance	2 Phases: a) Grey, plaster b) White, plaster	ND Chrysotile	3	1 99
A003C	A30128-9	Plaster, 2-03 Storage Room	2 Phases: a) Grey, plaster b) White, plaster	ND ND		100 100
A003D	A30128-10	Plaster, 1-04 Theater	2 Phases: a) Grey, plaster b) White, plaster	ND Chrysotile	3	1 99



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A30128r*
Client's Job/Project Name: 108 James Street North, Hamilton
Analyst: Kathy Feick, *Analyst*

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
A003E	A30128-11	Plaster, 1-10 Corridor	2 Phases: a) Grey, plaster b) White, plaster	ND Chrysotile	3	1 99 97
A003F	A30128-12	Plaster, B-06 Corridor	2 Phases: a) Grey, plaster b) White, plaster	ND Chrysotile	3	1 99 97
A003G	A30128-13	Plaster, B-08 Room	2 Phases: a) Grey, plaster b) White, plaster	ND Chrysotile	3	1 99 97
A004A	A30128-14	Vinyl floor tile, 12" beige black, 2-07 Open area former washroom	3 Phases: a) White, cementitious material b) Brown, mastic c) Black, vinyl flooring	ND ND ND		100 100 100
A004B	A30128-15	Vinyl floor tile, 12" beige black, 2-07 Open area former washroom	4 Phases: a) White, cementitious material b) Brown, mastic c) Black, vinyl flooring d) Yellow, mastic	ND ND ND ND		100 100 100 100
A004C	A30128-16	Vinyl floor tile, 12" beige black, 2-07 Open area former washroom	4 Phases: a) White, cementitious material b) Brown, mastic c) Black, vinyl flooring d) Yellow, mastic	ND ND ND ND		100 100 100 100
A005A	A30128-17	Brown black mastic, 1-01 Entrance	2 Phases:			



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A30128r*

Client's Job/Project Name: 108 James Street North, Hamilton

Analyst: Kathy Feick, *Analyst*

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
			a) Grey, cementitious material b) Brown and black, mastic	ND ND		100 100
A005B	A30128-18	Brown black mastic, 1-02 Vestibule	2 Phases: a) Grey, cementitious material b) Brown and black, mastic	ND ND		100 100
A005C	A30128-19	Brown black mastic, 1-04 Theater	2 Phases: a) Grey, cementitious material b) Brown and black, mastic	ND ND		100 100
A006A	A30128-20	Brown mastic, 1-02 Vestibule	Brown, mastic	Chrysotile	1	99
A006B	A30128-21	Brown mastic, 1-02 Vestibule	NA	NA		
A006C	A30128-22	Brown mastic, 1-02 Vestibule	NA	NA		
A007A	A30128-23	Vinyl sheet flooring, black, 2-01 Open space	3 Phases: a) Black and red, vinyl flooring b) Beige, vinyl backing c) Black, mastic	ND ND ND	10 95	90 5 100
A007B	A30128-24	Vinyl sheet flooring, black, 2-03 Storage Room	3 Phases: a) Black and red, vinyl flooring b) Beige, vinyl backing c) Black, mastic	ND ND ND	10 95	90 5 100
A007C	A30128-25	Vinyl sheet flooring, black, 2-07 Open space	3 Phases: a) Black and red, vinyl flooring b) Beige, vinyl backing	ND ND	10 95	90 5



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A30128r*
Client's Job/Project Name: 108 James Street North, Hamilton
Analyst: Kathy Feick, *Analyst*

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
			c) Black, mastic	ND		100
A008A	A30128-26	Fibrous paper, debris, 3-01 Ceiling space above the balcony	Grey, paper	Chrysotile	80	20
A008B	A30128-27	Fibrous paper, debris, 3-01 Ceiling space above the balcony	NA	NA		
A008C	A30128-28	Fibrous paper, debris, 3-01 Ceiling space above the balcony	NA	NA		
A009A	A30128-29	Drywall joint compound, 2-07 Open space	White and off-white, joint compound	ND		100
A009B	A30128-30	Drywall joint compound, B-12 Room	White and off-white, joint compound	ND		100
A009C	A30128-31	Drywall joint compound, 2-07 Open space	White and off-white, joint compound	ND		100
A010A	A30128-32	Red textile, wall covering, 1-04 Theater	Red, fibrous woven material	ND	95	5
A010B	A30128-33	Red textile, wall covering, 1-04 Theater	Red, fibrous woven material	ND	95	5
A010C	A30128-34	Red textile, wall covering, 1-06 Stage	Red, fibrous woven material	ND	95	5
A011A	A30128-35	Beige textile, under pad, 1-04 Theater	Beige, fibrous woven material	ND	95	5
A011B	A30128-36	Beige textile, under pad, 1-04 Theater	Beige, fibrous woven material	ND	95	5
A011C	A30128-37	Beige textile, under pad, 1-04 Theater	Beige, fibrous woven material	ND	95	5



Laboratory Analysis Report

EMC LAB REPORT NUMBER: A30128r*
Client's Job/Project Name: 108 James Street North, Hamilton
Analyst: Kathy Feick, *Analyst*

Client's Sample ID	Lab Sample No.	Description/Location	Sample Appearance	SAMPLE COMPONENTS (%)		
				Asbestos Fibres	Non-asbestos Fibres	Non-fibrous Material
A012A	A30128-38	Red decorative textile, 1-04 Theater	Red and beige, fibrous woven material	ND	95	5
A012B	A30128-39	Red decorative textile, 1-04 Theater	Red and beige, fibrous woven material	ND	95	5
A012C	A30128-40	Red decorative textile, 1-04 Theater	Red and beige, fibrous woven material	ND	95	5
A013A	A30128-41	Textured finish, 1-09 Storage room	Beige, textured plaster	Chrysotile	2	98
A013B	A30128-42	Textured finish, 1-09 Storage room	NA	NA		
A013C	A30128-43	Textured finish, 1-09 Storage room	NA	NA		
A014A	A30128-44	Parging cement, breeching, B-13 Mechanical room	Grey, parging cement	Chrysotile	60	40
A014B	A30128-45	Parging cement, breeching, B-13 Mechanical room	NA	NA		
A014C	A30128-46	Parging cement, breeching, B-13 Mechanical room	NA	NA		

- Note:**
1. Bulk samples are analyzed using Polarized Light Microscopy (PLM) and dispersion staining techniques. The analytical procedures are in accordance with EPA 600/R-93/116 method.
 2. The results are only related to the samples analyzed. **ND** = None Detected (no asbestos fibres were observed), **NA** = Not Analyzed (analysis stopped due to a previous positive result).
 3. This report may not be reproduced, except in full without the written approval of EMC Scientific Inc. This report may not be used by the client to claim product endorsement by NVLAP or any other agency of the U.S. Government.
 4. The Ontario Regulatory Threshold for asbestos is 0.5%. The limit of quantification (LOQ) is 0.5%.
- * This report has been revised as requested on April 5, 2017.



CERTIFICATE OF ANALYSIS

Final Report

C.O.C.: ---

REPORT No. B17-07477

Report To:

EMC Scientific Inc.
 5800 Ambler Dr. #100,
 Mississauga ON L4W 4J4 Canada

Attention: Alister Haddad

Caduceon Environmental Laboratories

2378 Holly Lane
 Ottawa Ontario K1V 7P1
 Tel: 613-526-0123
 Fax: 613-526-1244

DATE RECEIVED: 28-Mar-17

JOB/PROJECT NO.: 108 James St. N., Hamilton

DATE REPORTED: 03-Apr-17

P.O. NUMBER:

SAMPLE MATRIX: Paint Chips

WATERWORKS NO.

Parameter	Lead				
Units	% by wt				
R.L.	0.0005				
Reference Method	EPA 6010				
Date Analyzed/Site	29-Mar-17/O				

Client I.D.	Sample I.D.	Date Collected				
L001-Red, 1-01 Entrance	B17-07477-1	25-Mar-17	1.86			
L002-Blue, 1-01 Entrance	B17-07477-2	25-Mar-17	2.34			
L003-Brown, 1-02 Vestibule	B17-07477-3	25-Mar-17	0.766			
L004-Pink, 2-01 Open Area	B17-07477-4	25-Mar-17	3.03			
L005-Green, 2-02 Washroom	B17-07477-5	25-Mar-17	3.26			
L006-Light Brown, 2-04 Room	B17-07477-6	25-Mar-17	3.67			
L007-Black, 2-05 Balcony	B17-07477-7	25-Mar-17	< 0.0005			
L008-Beige, 1-04 Theater	B17-07477-8	25-Mar-17	0.0358			
L009-White, 1-10 Corridor	B17-07477-9	25-Mar-17	1.55			
L010-Orange, B-06 Corridor	B17-07477-10	25-Mar-17	2.21			
L011-Grey, B-06 Corridor	B17-07477-11	25-Mar-17	0.076			

Krystyna Pipin, M. Sc.
 Lab Supervisor

R.L. = Reporting Limit

Test methods may be modified from specified reference method unless indicated by an *

Site Analyzed=K-Kingston, W-Windsor, O-Ottawa, R-Richmond Hill

The analytical results reported herein refer to the samples as received. Reproduction of this analytical report in full or in part is prohibited without prior consent from Caduceon Environmental Laboratories.

Designs By Dall
18 Hawarden Ave.
Brantford, On
N3T 4H3

Project # 0929-24
Revised # 0929-24

Heritage Plaster Work at Tivoli Theatre, Hamilton, On.
C/O Aventus Development,
Mitch Gold
Revised this Sunday September 29th,2024.

This is an addendum to original Prospectus from site visit and exploration of works of plaster designated as Heritage.

Statues.

Augustus of Primaporta, Roman reproduction of Greek work, 1st C, C.E

Replace right arm, missing fingers and prepare and restore damage by years of neglect and paint and delamination. Finished as original in Porcelain Gloss finish of Plaster Casting. Head of Cupid riding Dolphin also needs extensive Repair and Restoration.

Note

Repair to Ceasar of Augustus right arm is a deficiency, it is neither to scale or quality of original, but it can be repaired seamlessly to OG, with great care and skill.

Minerva Giustiniani, Roman reproduction of Goddess of War with Coiled Serpent at her feet.

Both Statues are Plaster, not bronze as per Heritage Assessment. And finished in a Porcelain Paint to mimic original sculptors which were Marble. And Caesars Breastplate with carvings of the gods to illustrate his creation is in gold leaf. As Is coiled serpent to represent the gods at Minervas Feet.

Overall shape of these pieces are **fair**, and structurally sound, and can be well preserved, restored and finished for future use.

These are thorough and confident observations, made personally by myself, Steven Dall, owner and operator of Designs By Dall Painting and Restoration, expert in Paint and Plaster Restorations.

Please contact me with any questions. I hope to be involved with the Salvage and Documentation of all designated plaster mouldings in this amazing building.

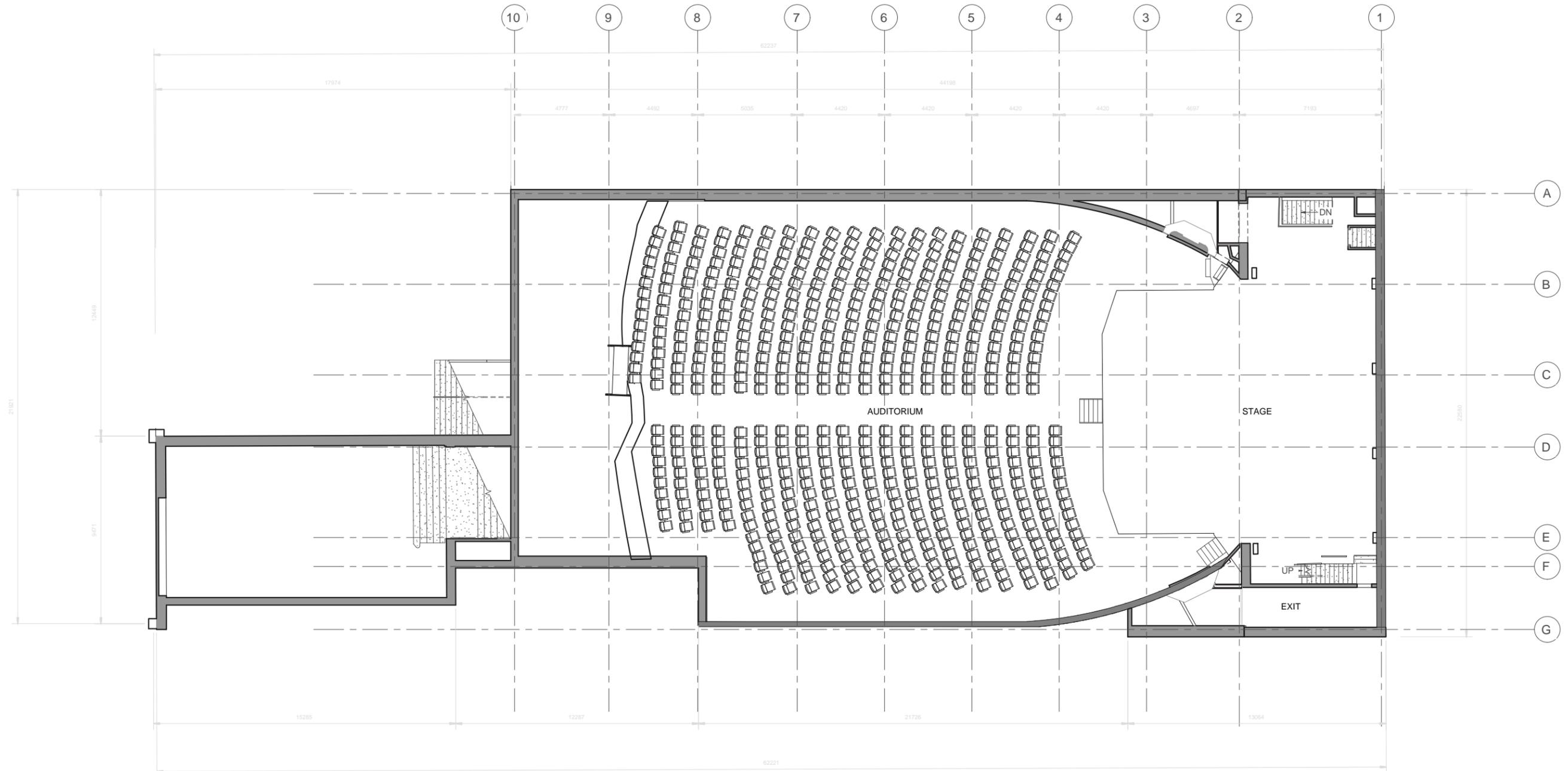
Sincerely
Steven Dall
905.541.5873

A.6 DRAWINGS

A.6.1 Current Conditions

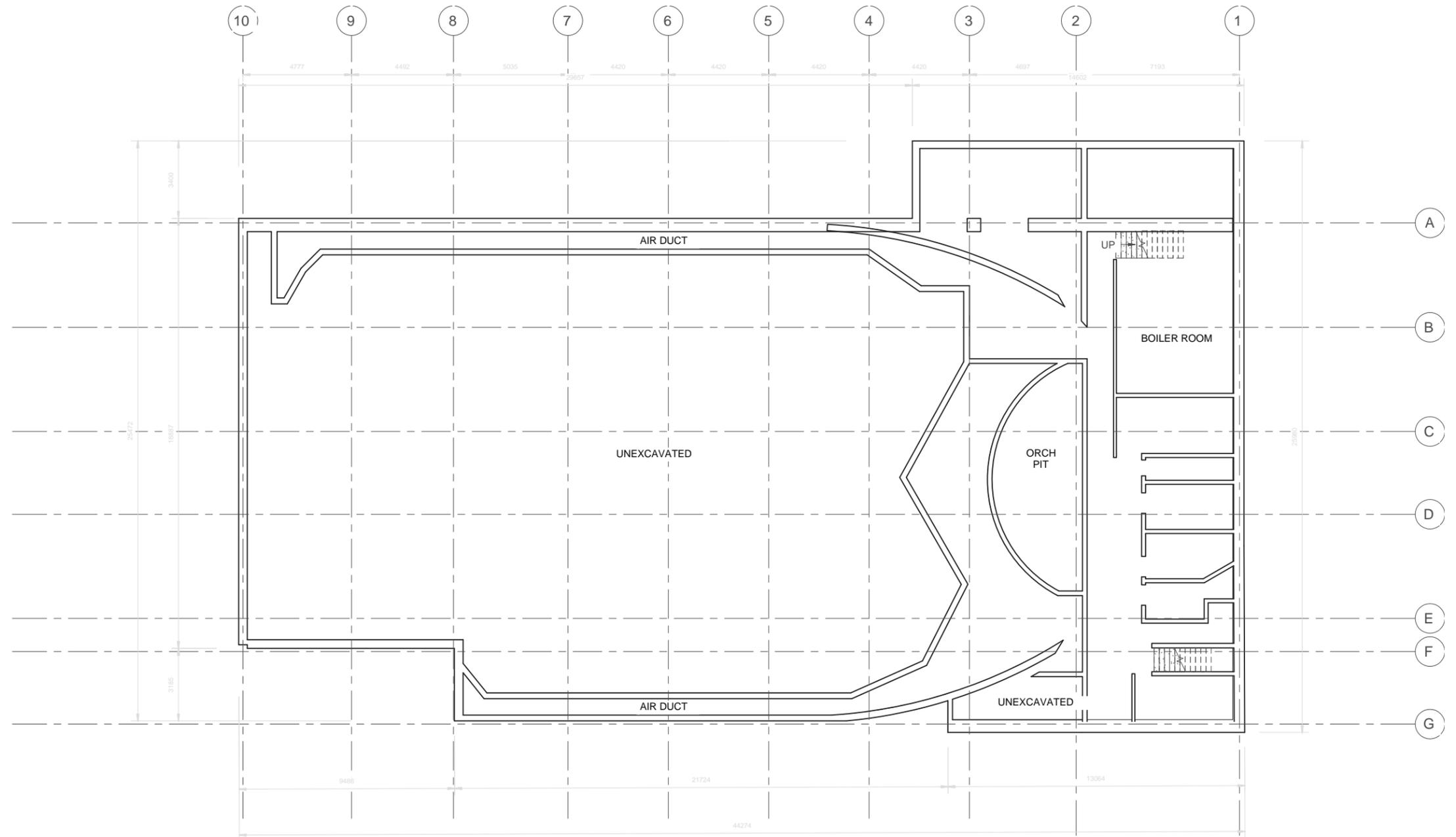
A.6.2 Proposed Development

A.6.1 TIVOLI DRAWINGS - CURRENT CONDITIONS



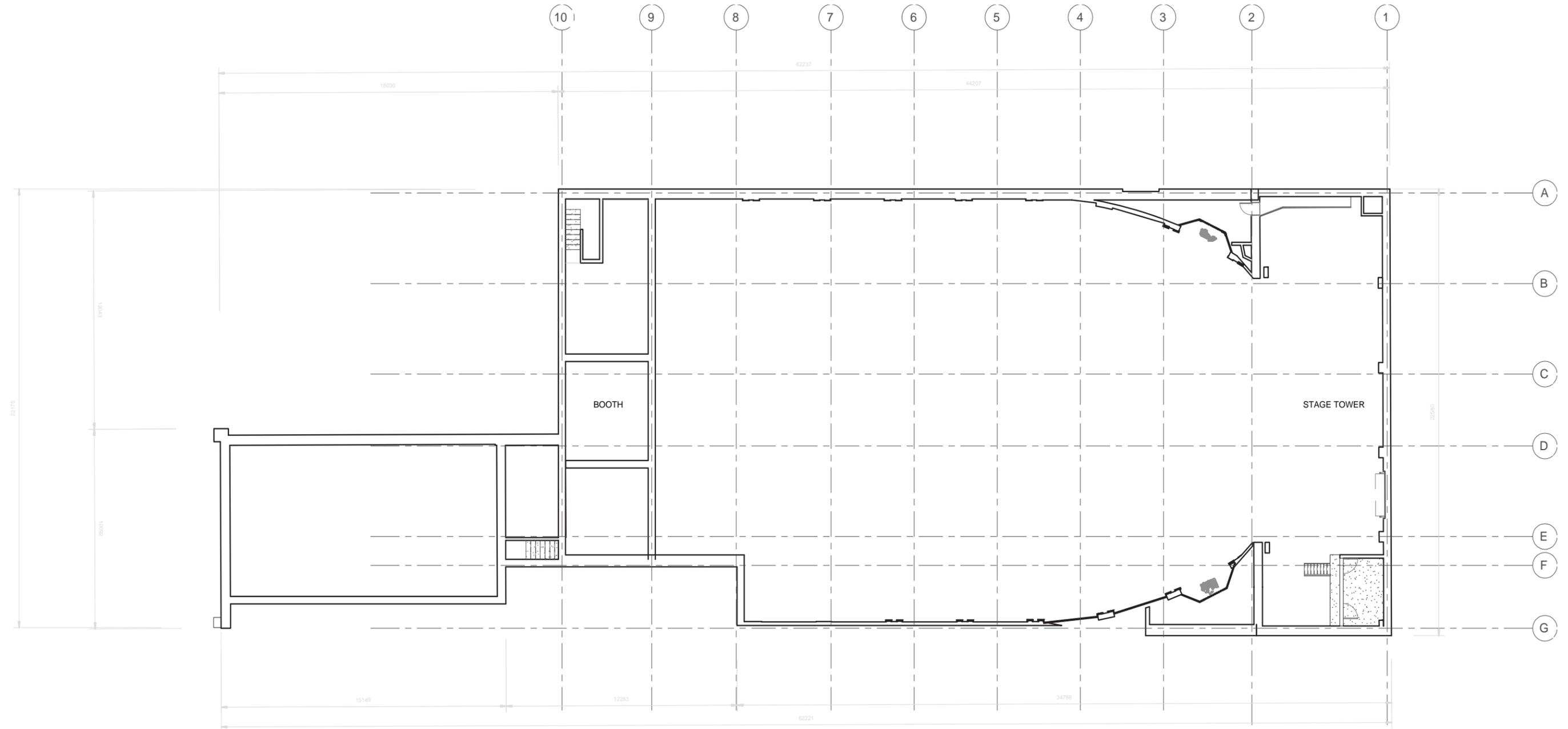
Tivoli Theatre - Ground floor plan [Source: Aventus Developments]

A.6.1 TIVOLI DRAWINGS - CURRENT CONDITIONS



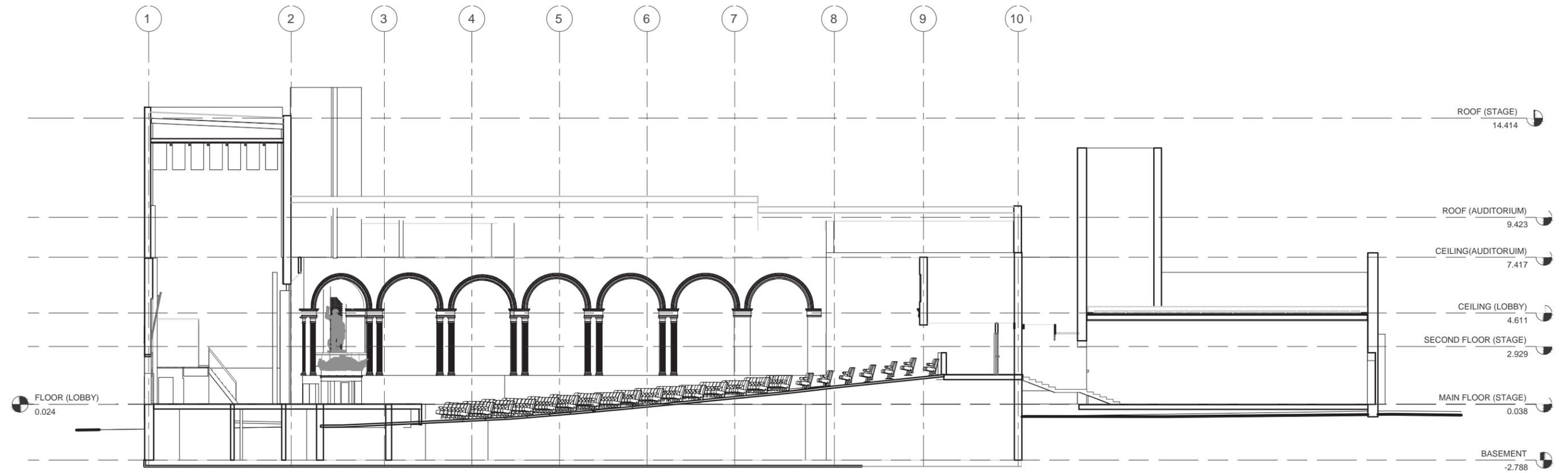
Tivoli Theatre - Basement floor plan [Source: Aventus Developments]

A.6.1 TIVOLI DRAWINGS - CURRENT CONDITIONS



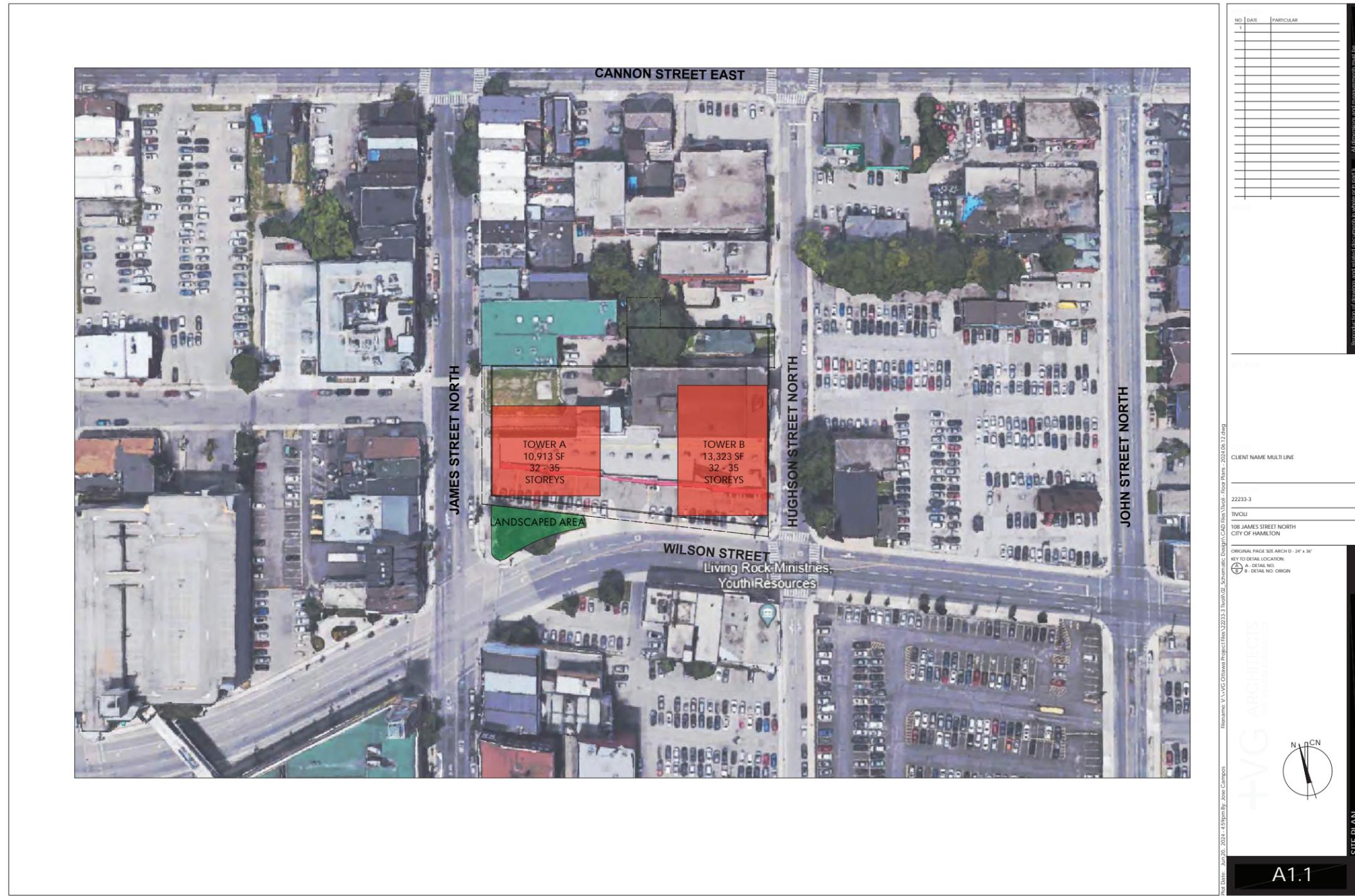
Tivoli Theatre - Basement floor plan [Source: Aventus Developments]

A.6.1 TIVOLI DRAWINGS - CURRENT CONDITIONS



Tivoli Theatre - Section [Source: Aventus Developments]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Proposed Development drawing [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Proposed Development drawing [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Proposed Development - View along James St. N looking South [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Proposed Development aerial view of the northwest corner[Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Historic view along Vine St. to the Proposed Development showcasing Tivoli Theatre interpretive design element [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Inspiration for interpretive design element [Source: +VG Architects]



Proposed Development - West Facade on James St. N. [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Proposed Development - View from James St. N. [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Aerial view of Proposed Development within the James St. Cultural Heritage Landscape [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Aerial view of Proposed Development within the James St. Cultural Heritage Landscape [Source: +VG Architects]

A.6.2 PROPOSED DEVELOPMENT DRAWINGS



Aerial view of Proposed Development within the James St. Cultural Heritage Landscape [Source: +VG Architects]

November 27, 2024

Alissa Golden, MCIP RPP
 Program Lead, Cultural Heritage
 Planning and Economic Development
 City of Hamilton

RE CHIA Addendum for Heritage Committee

Dear Alissa,

In preparation for the Heritage Committee meeting to be held on December 13th, 2024, we provide this addendum for the Cultural Heritage Impact Assessment. The purpose is to:

1. Provide more detail around the building conditions and processes required to repair the building, and
2. Outline the key principles in the design approach of the new development.

1. Engineering Reports on Building Conditions & Recommendations

- 1.1. Access Environmental Solutions provided a designated substances and hazardous building materials assessment. Designated substances and hazardous building materials were identified to be present, including areas of cultural heritage value as summarized below.

FEATURE	HAZARDOUS MATERIALS
Plaster on Walls, Ceilings, Ornamental Mouldings	<p>CONFIRMED: Asbestos is found in plaster on walls, ceilings, ornamental mouldings throughout subject building.</p> <p>COMMENTS: The condition of the asbestos-containing plaster throughout the building is extremely poor, evidenced by widespread damage to plaster walls and ceilings. Debris from this asbestos plaster can be found throughout the premises. Consequently, it is recommended to treat all building surfaces as contaminated with asbestos fibres due to the extent of plaster damage and debris present.</p>

- 1.2. Kalos Engineering provided findings of the conditions of the structure found to be in poor condition, with recommended replacement, additional reinforcing and rebuilding of the structural components as summarized below.

STRUCTURAL ELEMENT	STRUCTURAL ASSESSMENT
Roof Structural System	<p>The roof structure consists of gypsum-based roof deck panels. This material loses structural integrity when it becomes wet. Heavy moisture from failing roofing materials is evident throughout the roof structure; portions of the roof have collapsed. Shoring installation is in place to prevent collapse. Entire roof deck must be removed and replaced</p> <p><u>Steel Roof Framing</u> Steel roof trusses span the width of the auditorium. Areas of wood infill show evidence of significant water damage. Steel columns support steel roof trusses and extend down to bear on the top of the reinforced concrete wall at the base of the auditorium chamber along the perimeter. Steel structure requires full seismic upgrades and reinforcing, including the addition of new lateral bracing and shear walls to meet current codes and standards.</p> <p>(Existing plaster Ceiling Sub-structure is suspended from steel roof structure, In order to undertake any upgrades ceiling must be removed)</p>
Brick and Clay Tile Walls	<p><u>EXTERIOR WALLS</u> The exterior of existing building is brick masonry. The brick and mortar are failing in several locations. Considerable cracking and spalling were observed. Rowlock bricks in certain areas indicate that the exterior masonry wall is part of the buildings structural system. Removal or repair of the exterior brick façade would impact the building structure and interior walls.</p> <p><u>INTERIOR WALLS</u> Interior of walls (in main hall) are constructed of a combination of clay tile, commonly known as speed tile. The clay tile has been compromised due to moisture damage and is no longer viable. Brick and clay tile interior walls covered with plaster finish in most areas. Plaster is in poor condition; where visible, clay tiles and bricks are in poor condition. To access clay tile elements for demolition and removal all interior plaster wall finish requires remediation and removal.</p> <p>Brick and clay tile walls are significantly deteriorating at both the exterior and interior of the walls. In places exterior facades are integral to the building structure and cannot simply be removed and replaced. Interior clay tile can only be accessed after the removal and remediation of the asbestos containing plaster that covers it.</p>

Floor Framing	Additional reinforcing is required to remove damaged members and reinforce the floors to meet current structural codes and standards. Additional foundations and members are required to meet current day loading requirements. All floor leveling compound found through out the theater is asbestos containing and will require removal and remediation.
Paint and Plaster	Peeling paint and plaster is indicative of moisture and water infiltration in the walls. Plaster and paint will require removal remediation to access structural elements
Basement	Water ingress to basement has caused some flooding of rooms in the basement.
Foundations	It is assumed that the building is founded on strip and spread footing, founded on clay tile. New structural elements will need to be instated on native soils to provide adequate structural upgrades to meet current codes and standards

1.3. John G. Cooke & Associates Ltd. Consulting Engineers were retained to provide an additional current review on the building's conditions and processes required for repairing the building.

Structural Engineer Jonathan Dee, P.Eng (CAHP) reported the following:

STRUCTURAL ELEMENT	STRUCTURAL CONDITIONS/ REMEDIATION PROCESS REQUIRED
Roof Deck	OBSERVED: Gypsum-based panels have absorptive properties that make it a poor choice for a roof deck which is deteriorating due to water infiltration, and unsafe to walk on. Continued service of the deck is not recommended. REMEDICATION: A new roof deck is required including additional insulation which should include analysis of the existing trusses to confirm their ability to resist the full design snow load, and any necessary reinforcement identified and installed.
Steel Columns	OBSERVED: Water infiltration at column locations which have damaged the masonry. The columns appear to have a flange of only ¼" which means there is little spare material that can be lost before the column loses capacity. REMEDICATION: It is not possible to know the true extent of corrosion until it is exposed by removing the surrounding masonry. Any rehabilitation of the Tivoli should include the careful investigation of the embedded steel columns, which will likely require removal of exterior and interior finishes in order to repair.
Walls	OBSERVED: There is great concern over the performance of the exterior brick wall in saturated conditions and exposed to freeze-thaw cycles in many locations. The balance of the wall assembly consists of asbestos-containing plaster applied to metal lath, which is secured to wood nailing strips set into the terra cotta tile. The nailing strips have fully deteriorated in several locations, leaving a void in the bed joints for the terra cotta and causing the plaster to fail. The metal lath is also corroding. These conditions are undoubtedly present across many other locations where the plaster has not yet fully failed. REMEDICATION: Any rehabilitation of the Tivoli should include a comprehensive investigation of the condition of the terra cotta backup wythe for the exterior wall, and the

	<p>condition of wall ties where there is a cavity between terra cotta wythes. Any rehabilitation should also consider how the exterior wall might perform as part of a modern insulated wall assembly, especially the terra cotta. Hygrothermal modelling of any new wall assembly should consider the fact that much of this wall is quite saturated and will take years to fully dry. If salvage and reinstating asbestos-containing materials such as the plaster interior finishes were possible, removal of the plaster to avoid damage during the investigations and repairs does not seem practical.</p>
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1.4. Summary

Based on our review of these reports, we find that the building conditions allow no opportunity to retain the remaining historic interior building fabric as summarized below.

Abatement of Designated Substances Impact on Plaster Heritage Features

Plaster finishes of the walls, ceilings and ornamental mouldings are asbestos containing. Damaged plaster is in a friable condition and requires abatement. Because of the debris and plaster damage present, the report recommends that all building surfaces be treated as contaminated with asbestos fibres. The report recommends Type 3 abatement operations, recommending full removal of the contaminated plaster as noted in the report costing.

The statuary are isolated elements and could be encapsulated and relocated elsewhere and potentially integrated into the proposed interpretive centre.

Asbestos is a group of class I (WHO) carcinogenic fibers, and the main cause of mesothelioma. The role of asbestos in inducing lung cancer is well established and estimated to be six times larger than the mesothelioma incidence. [https://www.lungcancerjournal.info/article/S0169-5002\(24\)00395-7/fulltext](https://www.lungcancerjournal.info/article/S0169-5002(24)00395-7/fulltext)

Structural Remediation Impact to Heritage Features

Remediation required for the building exterior, roof and framing system requires major construction – replacement, reinforcement or rebuilding.

The interior plaster fabric is integral to these structural components. Plaster is installed on metal lath suspended from the existing roof structure. Plaster on the interior side of the exterior walls is also installed on metal lath which has corroded due to moisture and can't be reused. Interior clay tile walls where lath and plaster are attached have moisture damage.

As noted in the structural remediation notes, wall and roof structures that are supporting the existing plaster finishes require demolition, reinforcement and/or instatement of new structural elements. To undertake work to building structure, asbestos containing plaster will need to be completely removed and remediated to allow access to base building structural elements that require upgrading or replacement.

These interventions listed in the Cooke report include:

- Investigations of column conditions,
- Repair of steel columns,
- Replacement of all gypsum roof deck panels,
- Reinforcement of roof trusses if required,
- Complete localized rebuilding and repairs of masonry walls from exterior,
- Investigate and locally replace failed terra cotta tile along the interior,
- Investigate and reinforce wall ties as required.

Guidance on Conservation

With replacement of the structural elements and interior finishes of the building required, the work would be described more as renovation instead of conservation. Guiding principles for the conservation of historical properties are provided in the Ontario Heritage Toolkit. The goal of conservation is to:

- repair rather than replace building materials,
- use minimal intervention to maintain the historic content of the resources,
- keep new work legible so it can be distinguished from the original.

Since conservation of the physical building and heritage attributes is not feasible as defined, there is loss of building integrity and heritage value. Conservation must rely on a high level of historical documentation – historical photographs, drawings and physical evidence. Design guidelines for the new development should include reference to or dialogue with the unique features of the Tivoli Theatre such as the James St main entrance, the marquee, the building prominence such as massing, materiality and fenestration, and the grandeur of the theatre space.

2. Key Principles of the Design in the New Development

The rich history of the Tivoli Theatre began as a Carriage Factory constructed in 1875. Over the years it adaptive to various uses such as a storefront nickelodeon, a combination vaudeville and movie house, and a venue for live state shows. Along the way it became one of Hamilton's largest theatres and a part of the collective memory of its citizens. Capturing the history, the excitement and experience of the Tivoli Theatre is important to maintaining its presence in the future which can be achieved through interpretation planning and design.

Heritage interpretation is the communication of the meaning of a place through a variety of media.

The proposed new residential development will honour the legacy of the Tivoli Theatre through multiple measures architectural and interpretive material:

- Reinstatement of the lobby and new marquee in the same location as the original Tivoli theatre along James St N, introducing a reinterpretation and commemoration of the original carriage factory building in the heritage streetscape.
- A new public interpretive center and theater lobby, accessible from James Street North, will feature a commemorative gallery. The commemorative elements and interpretive materials will chronologically document the detailed history of the Tivoli Theatre, from its origins as a carriage factory to its eventual closing. This rich history will be showcased through various multimedia exhibits, including print and electronic publications, interactive installations, and a virtual reality tour. The VR experience will incorporate point cloud building scans undertaken by the owner, allowing visitors to immerse themselves in the grandeur of the theatre space and explore it as though they were physically present.
- A new event space will feature a design that pays homage to the heritage fabric of the original Tivoli Theatre. Through contemporary design elements, the space will embody the spirit and character-defining features of the historic venue, creating a thoughtful commemoration of its legacy. These features will engage users by blending modern aesthetics with the timeless charm of the original design, fostering a meaningful connection to the theater's storied past.

I trust that this provides sufficient additional detail, but look forward to your comments.

Best regards,
+VG Architects



Paul John Sapounzi
BES BARCH OAA NSA MAA FRAIC CAHP AIA
Chief Executive Officer

Aventus Development Corp.
1418 Ontario St
Burlington, ON L7S 1G4

November 27, 2024

Project No. 24059

Attn: Mitch Gold (mgold@aventusdevelopments.com)
Jason Smith (jsmith@riserealestate.ca)

**RE: Tivoli Theatre
Update to Condition Assessment**

Dear Messrs. Gold and Smith,

We understand that an application was made to demolish the property, which was discussed at the most recent Heritage Permit Review Sub-Committee. We further understand that the Sub-Committee requested some additional information be provided in advance of consideration of this application at the Hamilton Municipal Heritage Committee, among this:

2. Clarity on the severity of the structural issues and what it would take to make the building sound. What steps would be needed to repair the envelope and replicate the interior heritage features, and what would the approximate cost be? The Councillor has indicated he is specifically interested in understanding cost, though I recognize that cost was not necessarily the deciding factor for the applicant in this case.

This letter is intended to provide additional requested information with respect to the building's structure and envelope, and to otherwise provide an update to the report on the condition of the Tivoli Theatre prepared by John G. Cooke & Associates Ltd. (JCAL) in January 2024 (our report). Our report was written in anticipation that it would form part of a broader document package that would include architectural considerations and discussion on the outcome for the building. As it ultimately did not, and as it is clear that there are differing views on what should happen with the building, this letter therefore seeks to highlight some of the findings of our report and otherwise provide some further observations and opinions that we believe should be considered as part of that debate.

Given the span of time between our report and this latest request, Jonathan Dee, P.Eng., ing., CAHP, and Sarah Francisca, EIT, CAHP Intern, of John G. Cooke & Associates Ltd. visited the site in the afternoon on Friday, November 22, 2024, accompanied by yourselves and Paul Sapounzi of +VG Architects, to review current conditions.

In very brief summary, as it is relevant to understanding this letter, the theatre's auditorium is constructed with

- gypsum-based roofing panels supported by steel roof framing, and steel trusses spanning the width of the auditorium,
- steel columns embedded in the exterior walls, and
- exterior masonry walls that consist of a brick exterior wythe keyed into a terra cotta tile backup, to which the interior finishes are applied.

Structure

Foremost is to update regarding the risk posed by conditions at the re-entrant corner along the south wall of the auditorium (location marked in Fig. 1). In our report we identified concerns with movement of the pier at this corner, which at the top is displaced by approximately 3-4" towards the north, separating from the wall to its south (see Figs. 2, 3, and 4). The roof has failed adjacent to this pier and we identified the potential for corrosion of the steel column that we believe is embedded within it. In February 2024, we designed

shoring for the truss that bears on this pier/column, including lateral attachment where the return wall meets the column pier. While we were advised that the shoring had been installed, our most recent review confirms this is not the case, and we understand that there was a miscommunication from employees previously with Aventus. You have confirmed that this shoring will be given utmost priority, and will be installed by Thursday November 28, 2024.

While no failure to the column or truss has occurred since our January review, it is very important to install this shoring immediately and for it to be in place before any significant snowfall would add load to the roof. Actively leaking in January, a roof repair above this pier has now fully failed and daylight is visible in the attic.



Fig 1: Aerial view, with area of concern identified.

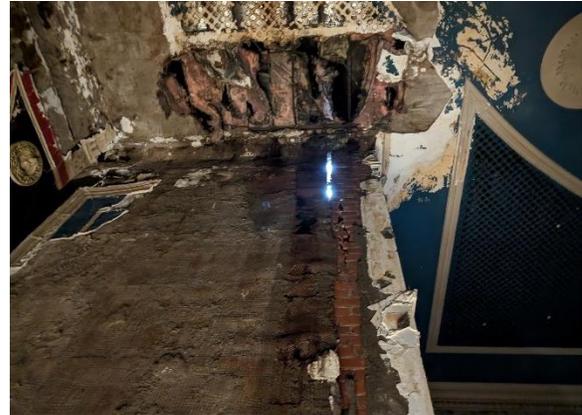


Fig 2: Pier separating from wall, from interior.



Fig 3: Pier separation, from attic, in Jan 2024.



Fig 4: As Fig. 3, in Nov 2024, with failed roof.

There are signs of water infiltration at other column locations, as well as signs of previous corrosion-jacking having damaged the masonry, such as cracking at columns and a control joint that appears to have been cut into the wall in one location along the alleyway to the north. As they must only support a single level, the columns themselves are not very large, and appear to have a flange thickness of only around 1/4". As opposed to larger historic buildings with larger columns, there is not much spare material that can be lost before the column loses capacity. Typically we have found in buildings of this era that no anchors are provided between columns and the adjacent masonry, which can also result in issues.

Corrosion of steel embedded in masonry is a very common problem for buildings constructed before modern rain screen wall systems. It is not possible to know the true extent of corrosion until it is exposed by removing the surrounding masonry. An example can be seen at Fig. 5, where after removing some cracked masonry and concrete around a column supporting eight levels below the wing of a historic hotel in Quebec City, we found the column to have completely failed. Given the roof leaks and the lack of heat in

the building to assist drying, we are concerned with the risk that corrosion of steel columns embedded in the walls of the Tivoli's auditorium is present and ongoing.

Any rehabilitation of the Tivoli should include the careful investigation of the embedded steel columns, which will likely require removal of exterior and interior finishes in order to repair.



Fig 5: Example of severe concealed corrosion.



Fig. 6: Roof deck, inset w/ panel composition

The other key issue with the building's structure is the roof deck, which consists of gypsum panels. Leaks throughout the auditorium roof have resulted in deterioration of this deck (see Fig. 6). Gypsum roof deck panels were a relatively common cost-effective option in early 20th century construction, and consist essentially of plaster of Paris mixed with wood shavings (see inset on Fig. 6), cast into panels with integral steel reinforcing. The panels were fire resistant, lightweight, insulative, and minimized the potential for condensation at the underside of the deck. This latter absorptive quality is also the reason the material is very susceptible to moisture damage, making it a terrible choice as a durable roof deck, especially for a flat roof. We do not believe it is safe to walk on the roof of this building without fall protection, nor would we recommend the continued service of the roof deck.

An insulated roof deck is often desired as part of rehabilitation work. While the existing roof trusses have a history of adequate performance, the marginal insulation offered by the gypsum panels has likely effectively reduced snow loading. The addition of any insulation should include the analysis of the existing trusses to confirm their ability to resist the full design snow load, and any necessary reinforcement identified and installed.

Walls

The walls of the auditorium consist of exterior brick built integrally with backup terra cotta tile. This is not a poor performing wall when in good condition and in a typical heated and weather protected application, but we are very concerned with its performance in a saturated condition exposed to freeze-thaw cycles, a combination which exists in many locations. Moisture transmission through the wall will also transport and deposit soluble salts, which is also detrimental.

The balance of the wall assembly consists of asbestos-containing plaster applied to metal lath, which is secured to wood nailing strips set into the terra cotta tile. In several locations the nailing strips have fully deteriorated, leaving a void in the bed joints for the terra cotta and causing the plaster to fail. The metal lath is also corroding. Many curtains hung up against the interior walls of the auditorium are wet and retaining moisture against the wall. We are not environmental consultants but it seems very likely that mold is present. Rotted nailing strips and corroding lath are undoubtedly present across many other locations where the

plaster has not yet fully failed. Closer to the auditorium the plaster is applied to a separate interior wythe of terra cotta that curves inward towards the stage, and here the plaster is in better condition. Unfortunately, the condition of the underlying terra cotta in the exterior wall is obscured, and there exists the risk that concealed corrosion of wall ties has been occurring.

Any rehabilitation of the Tivoli should include a comprehensive investigation of the condition of the plaster attachment, the condition of the terra cotta backup wythe for the exterior wall, and the condition of wall ties where there is a cavity between terra cotta wythes.

Any rehabilitation of the Tivoli should consider how the exterior wall might perform as part of a modern insulated wall assembly, especially the terra cotta. Notwithstanding how insulation might be installed, the significant energy loss through uninsulated walls is typically attempted to be addressed in rehabilitation projects. Analysis of both the brick and the terra cotta substrate to confirm freeze-thaw resistance and dimensional stability should inform hygrothermal modeling of any new wall assembly, including the amount of allowable insulation (if any) and the application of air and moisture barriers. Modeling should consider the fact that much of this wall is quite saturated and will take years to fully dry.

It is understood that the heritage fabric to be conserved at this building consists of the plaster interior finishes. Assuming it would be allowable to salvage and reinstate asbestos-containing material, removing the plaster from the substrate to avoid damage during the above-noted investigations and repairs does not seem practical, and any such work would be made more difficult still as it contains friable asbestos.

Interventions Required

At minimum, the following scope of work is required to conserve the building shell:

- Investigate the condition of columns.
 - This may be required at all columns.
 - Scope could potentially be reduced if one can confidently correlate the condition of exposed masonry with that of the underlying steel.
- Repair steel columns as required.
 - The scope here is fully unknown at this point but could be substantial.
 - Confirm existing steel is weldable.
 - Repairs typically involve reinforcing columns by adding welded plates/angles, but can range to wholesale replacement where severe corrosion exists.
 - Exposed columns should also be protected from future corrosion with at least a marine epoxy paint.
- Replace all gypsum roof deck panels.
 - This would presumably be done with steel deck.
- Reinforce roof trusses, if required.
 - This is unknown but as the benchmark national building code edition for snow loading is 1960, and 1965 for snow drifts, this is a potential issue, especially around roof obstructions (RTUs, doghouses, etc.). Must assess trusses and secondary roof framing.
- Complete localized rebuilding and repairs of masonry walls, from exterior.
 - Repoint failed cracks, rebuild parapets, etc.
 - Add masonry anchors along steel columns.
- Investigate and locally replace failed terra cotta tile along the interior.
 - This scope is fully unknown and would be very challenging to determine without at least localized removals of the plaster, throughout.
 - Deteriorated sections of terra cotta tile would be replaced, with a compatible material.
- Investigate and reinforce wall ties, as required.
 - This scope is fully unknown at this time pending a substantial amount of exploratory openings.
 - Install supplementary wall ties, as required where existing ties are ineffective or have failed/corroded.
 - New ties could potentially consist of helical ties driven through the interior plaster, and across the wythes of tile.

The above should be considered a minimum, based on existing information. Other issues and concerns regarding the structure and envelope would likely come up when the building is considered by a team of consultants for the various disciplines required for a full rehabilitation project. The above does not consider any foundation, slab on grade, or basement-level work which is required. Any excavation below the slab on grade should also consider the potential for contaminated soil, which we occasionally find in historic fill below these slabs.

Potential rough costs for the superstructure and building shell are as follows:

Column investigation and wall/finish repairs*	\$ 250,000.00
Column repairs (placeholder) *	\$ 500,000.00
Roof deck removal and replacement *	\$ 1,500,000.00
Roof truss repairs (placeholder) *	\$ 200,000.00
Asbestos, shoring, scaffolding.	\$ 1,000,000.00
Exterior wall repairs and rebuilding	\$ 750,000.00
Interior wall investigation, repair (placeholder**)	\$ 250,000.00
Wall tie investigation, repair (placeholder**)	\$ 250,000.00
	\$ 4,700,000.00

* Roofing replacement is required to prevent further water ingress. To do this, the roof deck must be replaced, and therefore columns must also be investigated and repaired. Trusses must be assessed and reinforced as well, if insulation is to be added.

** Repairs across 20% of terra cotta wall area is assumed.

It is almost impossible to come up with a budget without far more investigation and determination of the true scope of work required to rehabilitate the building shell. We would recommend that any budgeting for this project include a large contingency of at least 25%. Effectively addressing the ongoing water ingress requires the completion of most of the above-noted work.

Closing

It is understood that this letter, and presumably the associated report, may be provided to the Heritage Committee where I hope it can better inform the discussion on the fate of the Tivoli theatre.

While the Tivoli clearly has an important place in the City's history this building is nonetheless in an advanced state of deterioration. This building presents very significant challenges, not only to a potential rehabilitation but even to mitigating the ongoing water ingress in the interim, and addressing either of these would require significant funding and the acceptance of a high risk of scope, schedule, and cost increases due to investigation findings and site conditions.

As a structural engineer I am less equipped to comment on the social and community aspect of the ongoing discussion, but my experience in the preservation and adaptive re-use of many buildings would suggest that this building is at least pushing very hard on the limits of what can reasonably and realistically be achieved as part of a redevelopment project.

It is important to bear in mind that deterioration of this building will continue to progress at an increasing rate. There is a high likelihood that dangerous conditions will develop in the near term and, more concerningly, that others may currently exist that we cannot see.

By now the building has sat as the object of debate for many years while its condition deteriorates. The Owner wishes to demolish it and does not have a business case wherein they are willing to accept the significant costs and risks associated with retaining it. Heritage advocates, who's cause I support, do not wish to lose what was once a vibrant space in the community. I am concerned about the risks to the public posed by the building right now, let alone in the coming years. The liability of leaving this building to deteriorate further is unacceptable. Unless there is a realistic prospect of immediately undertaking a project in line with what is described above, then I must regrettably recommend that this building be demolished without further delay.

Disclaimer and Limitations

This report is based on and limited to information supplied to John G. Cooke & Associates Ltd. by Aventus Developments personnel, and by observations made during walk-through inspections of the Tivoli Theatre Building. Only those items that are capable of being observed and are reasonably obvious to John G. Cooke & Associates Ltd. or have been otherwise identified by other parties and detailed during this investigation can be reported.

The work reflects the Consultant's best judgment in light of the information reviewed by them at the time of preparation. There is no warranty expressed or implied by John G. Cooke & Associates Ltd. that this investigation will uncover all potential deficiencies and risks of liabilities associated with the subject property. John G. Cooke & Associates Ltd. believes, however, that the level of detail carried out in this investigation is appropriate to meet the objectives of our requested services. We cannot guarantee the completeness or accuracy of information supplied by any third party.

John G. Cooke & Associates Ltd. is not investigating or providing advice about pollutants, contaminants or hazardous materials.

This report has been produced for the sole use of Aventus Developments Corp. and cannot be reproduced or otherwise used by any third party unless approval is obtained from John G. Cooke & Associates Ltd. No portion of this report may be used as a separate entity; it is written to be read in its entirety.

We trust this report covers the scope of work as outlined in our proposal. Should there be any questions regarding this report, or if we can be of any further assistance to you, please contact us.

Sincerely,

JOHN G. COOKE & ASSOCIATES LTD.



Jonathan Dee, P.Eng., ing., CAHP
Principal

JD/jd
24059/ltr_02



November 23, 2024

Access File: 10113.003

Aventus Development Corp.
1418 Ontario Street
Burlington, Ontario L7S 1G4

Attention: Mitch Gold, Planning Analyst

Re: High-Level Opinion on Probable Costs for Abatement
Former Tivoli Theatre - 108 James Street North, Hamilton, Ontario

Access Environmental Solutions (Access) is pleased to provide Aventus Development Corp. (Aventus/ Client) with a high-level Opinion on the Probable Costs (OPC) associated with the abatement of designated substances (including asbestos) and hazardous building materials identified to be present in the former Tivoli Theater building located at 108 James Street North, Hamilton, Ontario.

This OPC review was conducted at the request of Aventus to aid in making informed decisions regarding the redevelopment of the site.

An assessment was completed by Access as documented in the report titled "Designated Substances and Hazardous Building Materials Assessment, Final Report, Former Tivoli Theatre, 108 James Street North, Hamilton", dated April 9, 2024, Access File No. 100113.002 which revealed the following:

Asbestos-Containing Materials (ACM)

- parging insulation (Alabastine®) applied to the brick chimney wall (likely extending from the main level to the roof)
- floor tiles, mastic and levelling compounds at various locations within the building
- pipe and fitting insulation (in poor condition) located in the crawl space below the front lobby area (similar insulation may be concealed in other areas of the building)
- textured finish on walls and ceiling of a storage room
- cementitious coating on boiler room walls
- plaster on walls, ceilings, and possibly ornamental mouldings present throughout the building

The asbestos-containing plaster is in poor condition, with debris observed throughout the premises. As a result, all building surfaces are considered contaminated with asbestos fibres.

In addition to the ACMs listed above, the following building materials, suspected to be present but inaccessible for sampling, are presumed to contain asbestos until further testing confirms otherwise:

- flexible fabric connectors on ductwork
- sheathing on electrical wiring throughout subject building
- electrical components within electrical panels, switches, breakers, fuse holders, light fixtures etc.
- cast iron pipe connections
- gaskets
- buried cement-based pipes / conduits
- roofing materials including felts, flashing, underlayment, roofing paper, vapour retardants, adhesives, caulking, sealants etc.

Lead

- Lead is present in previously tested paint and surface coatings, with concentrations ranging from <0.0005% (5 ppm) to 3.67% (36,700 ppm).
- Untested paint and surface coatings are presumed to contain lead.
- Paint and surface coatings are in deteriorating condition, with extensive peeling, flaking, and debris observed throughout the premises.
- Lead is also presumed to be present in the following materials: batteries (e.g., emergency lighting, exit signs), cable and wire sheathing, cast iron pipe gaskets and connections, pipes, solder (used in domestic water lines, bell fittings for cast iron pipes, and electrical equipment), and structural steel primers.

Mercury

- compact fluorescent lights
- paints and adhesives

Silica

- concrete and cement
- masonry and mortar
- block walls
- drywall
- paints
- plaster and stucco

Polychlorinated Biphenyls (PCB)

- electrical equipment including transformers, capacitors, pot heads, cables

Ozone-Depleting Substances (ODS)

- Rooftop HVAC units

Mould

- Mould growth is prevalent on various surfaces throughout the building due to ongoing water damage and leaks.

Biological Contaminants

- Animal waste observed in several parts of the catwalk space / ceiling plenum, particularly beneath the fibreglass batt insulation. Given the state of the building, it is likely that similar waste is present in other areas of the building.

Based on the assessment, the following cost elements and corresponding activities have been identified for the building's redevelopment to support either building demolition or renovation.

1. Removal of Asbestos-Containing Materials

- The project will be completed in compliance with the requirements of the Ontario Occupational Health and Safety Act (OHSA) including O. Reg. 278/05 (asbestos regulation) and O. Reg. 490/09 (designated substances regulation).
- Due to the significant damage to asbestos-containing materials, all work must adhere to the highest level of precautions as outlined in O. Reg. 278/05 for Type 3 operations.
- The scope of work includes the removal of all confirmed and presumed asbestos-containing materials identified above.
- The work will require setting up the entire building as a Type 3 asbestos abatement area, including sealing any voids in the building envelope, such as the roof, to maintain the negative pressure necessary for abatement activities.
- The project will involve supplying and installing a sufficient number of negative air machines to sustain adequate negative air pressure for the duration of the work. This is a requirement for Type 3 abatement work areas unless the building is to be demolished and will not be entered by any person except workers involved in the operation and workers involved in the demolition of the building.
- A worker decontamination facility, including separate clean-side and dirty-side change rooms as well as an integrated showering area, will be established.
- All workers involved in abatement activities will wear personal protective equipment, including disposable coveralls, gloves, appropriate full-face respirators, and additional safety gear such as hard hats, safety footwear, and harnesses for those working at heights.
- Non-fixed materials to be salvaged (i.e., ornaments, statues etc.), will require cleaning using HEPA vacuuming and wet wiping methods prior to removal from the building.

- Fixed building components, such as theatre seating, will need to be removed and either cleaned using HEPA vacuuming and wet wiping methods prior to disposal as clean waste or not cleaned and disposed of as asbestos waste. This is due to the potential contamination from damaged asbestos plaster and settled asbestos fibers.
- Due to the height of the theatre's plaster ceiling, it may be necessary to remove the theatre stage to facilitate the entry of man-lifts through a bay door off Hughson Street North. Alternatively, scaffolding could be erected; however, the associated costs may not be the most cost-effective solution for accessing and removing the plaster ceiling.
- All generated asbestos waste will be double-bagged in labeled waste bags and disposed of at an approved facility in accordance with regulatory requirements.
- Clearance air monitoring by a qualified asbestos consultant is a regulated requirement for Type 3 operations unless the building will be demolished and will not be entered by any person except the workers involved in the operation and the workers involved in the demolition.
- Unless measures are implemented to expose the asbestos-containing pipe and fitting insulation located in the crawl space beneath the concrete floor slab of the lobby (the preferred approach), confined space procedures will need to be followed to safely access the area for abatement activities.
- Water, electricity, and potentially heating (depending on the season) will need to be provided to support abatement work.
- Given the roof's condition (water-damaged), a detailed plan must be developed to implement special measures ensuring the safe removal of roofing materials.
- Due to damage to building components caused by water leaks, which has led to structural deterioration, the abatement of asbestos-containing materials should be planned out alongside a comprehensive review and planning of structural engineering considerations.

2. Management of Lead-Containing Materials

- Lead remediation work will be undertaken in conjunction with the Type 3 asbestos abatement operations listed above.
- Loose and flaking paint, as well as extensive paint debris present throughout the interior, confirmed and presumed to contain lead, will require removal and disposal in compliance with the requirements of Ontario Waste Management Regulation O. Reg. 347/90.
- Building materials containing lead will require testing for leachable lead prior to disposal as they may be subject to classification as hazardous waste.
- Lead-containing batteries should be recycled when taken out of service.

3. Management of Mercury-Containing Materials

- Complete removal and proper disposal of mercury-containing equipment is required when the equipment is taken out of service, prior to renovation or demolition work.
- Mercury is a hazardous waste and should be disposed of in accordance with the requirements of O. Reg. 347/90. As a preferred alternative, mercury-containing equipment can be sent for recycling.

4. Management of Silica-Containing Materials

- The safe work practices in accordance with the requirements of the OHSAA are to be followed for the disturbance of silica-containing materials.

5. Management of PCB-Containing Materials

- Prior to decommissioning, the PCB content of electrical equipment will need to be reviewed.
- Equipment confirmed to contain PCBs should be handled, stored, and disposed of in compliance with all applicable federal and provincial regulations.

6. Management of ODS-Containing Materials

- Prior to decommissioning, equipment containing or suspected to contain ODS refrigerants will require decommissioning by a licenced refrigeration technician.

7. Management of Mould and Biological Contaminants

- If the building is not demolished, mould remediation work should be undertaken where mould-impacted and water-damaged building materials are identified. The work should be completed by specialized mould abatement contractors following the safe work practices and precautions provided in the EACC publication entitled "EACC Mould Abatement Guideline", Edition 3, (2015).
- Mould clearance air monitoring will be required after the removal of mould-impacted building materials and before protective measures are lifted if the building is not being demolished and renovations are planned.
- EACC Level 3 operations should be implemented in conjunction with O. Reg. 278/05 Type 3 operations listed above for the remediation of mould-impacted building materials.
- In areas where extensive or significant amounts of mould or animal waste-contaminated materials are present or suspected, manual or hand-demolition activities should be avoided; instead, heavy equipment should be utilized.

- Dust suppression measures should be employed throughout the demolition process.
- Heavy equipment operators and nearby workers should implement appropriate health and safety protocols and use adequate personal protective equipment (PPE), such as respirators and protective suits, to safeguard against airborne dust generated during demolition activities.

1.0 ASSUMPTIONS AND LIMITATIONS

The OPC provided is based on the following assumptions/limitations:

- Asbestos has been identified in the plaster finish coat but not in the base coat consistently throughout the building, based on sampling conducted to date. Further extensive sampling is recommended to confirm this initial finding.
- The effort required to remove the asbestos-containing plaster remains uncertain and may impact abatement costs. Conducting a trial removal would provide valuable insight into the level of effort needed, enabling a more accurate cost estimate.
- Roofing materials are presumed to contain asbestos. Due to the potential costs associated with removing the roofing as asbestos-containing material, it is recommended to conduct sampling and testing to confirm asbestos content and determine the extent of abatement work required.
- OPC is provided based on rough estimates of the building size and layout.
- If the building is to be salvaged and renovated, the extent to which hidden mould-impacted building materials are present is uncertain. Full costs may not be known without a more intrusive inspection to uncover hidden issues such as the extent of water damage and mould growth.
- Structural instability, water damage, or degradation of building materials and components can complicate abatement activities and increase costs.
- The OPC excludes costs related to the management and disposal of large-format equipment such as transformers that may contain PCBs, which were not observed during the initial assessment. The costs outlined below pertain to the removal and disposal of lighting ballasts, contingent on PCB presence being confirmed during removal.
- The OPC is based on current prices for labour, equipment, materials and waste management. An increase in these costs due to market changes, seasonal variations, weather conditions etc. could affect the final abatement and remediation costs.
- The costs for professional consulting services, including additional assessments (e.g., roofing), preparation of abatement specifications, support during construction including oversight inspections, clearance air testing etc., should be considered and are estimated below.

2.0 HIGH-LEVEL OPINION ON PROBABLE COSTS (OPC)

Cost Element	Opinion of Probable Costs (OPC)
O. Reg. 278/05 Type 3 operations for the abatement and disposal of identified asbestos-containing materials within the theatre	\$965,000*
Abatement and disposal of roofing materials	\$150,000*
Management of lead-containing materials (undertaken in conjunction with asbestos abatement operations)	-
Management of mercury-containing materials (undertaken in conjunction with asbestos abatement operations)	-
Management of silica-containing materials (measures implemented during building renovation or demolition work)	-
Management of PCB-containing materials	\$5,000*
Management of ODS-containing materials	\$5,000*
Management of mould-impacted building materials and other biological contaminants in conjunction with Type 3 asbestos abatement operations (assumes building demolition)	-
Professional consulting support services	\$15,000*
Total	\$1,140,000*

* plus / minus 30% to 50%
 OPC excludes all taxes

The high-level Opinion of Probable Costs provided above has been developed based on currently available information and general assumptions about the scope and complexity of the project. The OPC was prepared in collaboration with a contractor specializing in the abatement of asbestos and other hazardous building materials. It is important to note that the OPC is intended as a preliminary estimate and may not fully account for all variables, such as unforeseen site conditions, hidden/concealed materials or changes in the project scope. Additional detailed assessments and planning may be required to refine the cost estimate.

3.0 GENERAL LIMITATIONS

The work performed by Access is conducted by trained professional and technical staff in accordance with generally accepted engineering and scientific practices current at the time and geographic location the work is performed.

The findings of the assessment represent the best technical judgment of Access based on the information made available by the Client and on the site conditions encountered by Access at the date and time the work was performed. The findings are limited to the areas assessed based on the mutually agreed to scope of work. The extent of the area that was assessed may be limited by various factors including

High-Level Opinion on Probable Costs for Abatement
Former Tivoli Theatre - 108 James Street North, Hamilton, Ontario
Aventus Development Corp.

Page 8

building construction and conditions, subsurface conditions, concealed or obscured areas, weather, building usage, occupancy and other factors. Due to the nature of the investigation and the limited data available, Access cannot warrant against undiscovered environmental liabilities. Conclusions presented in the report or other information provided should not be construed as legal advice.

No warranty is either expressed or implied, or intended by this agreement or by furnishing oral or written reports or findings. Access's liability will be limited to the lesser of the fees paid or actual damages incurred by the Client. Access will not be responsible for any consequential or indirect damages and can only be liable for damages resulting from the negligence of Access.

4.0 CLOSURE

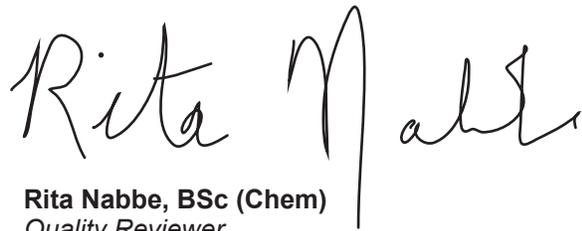
We trust this report is in accordance with your requirements. Should you have any questions or require clarification on any aspect of this submission please feel free to contact the undersigned.

Sincerely,

ACCESS ENVIRONMENTAL SOLUTIONS



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https://accessenv-my.sharepoint.com/personal/andy_accessenvironmental_ca/Documents/AccessES/Projects/10113 RiseRealEstateInc/003 AbtConsting108JamesStNHamilton/Report/10113.003 OPC for Abatement at Former Tivoli Theatre Aventus Nov 23 2024.docx

CITY OF HAMILTON MOTION

Planning Committee Meeting: January 14, 2025

MOVED BY COUNCILLOR M. WILSON.....

SECONDED BY COUNCILLOR

Feasibility on the Adoption and Enforcement of a By-law to Prohibit Protests at Places of Worship and Their Facilities

WHEREAS, section 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended provides that a Municipality may pass by-laws respecting: economic, social and environmental well- being of the Municipality; health, safety and well-being of persons; and the protection of persons and property;

WHEREAS, the Canadian Charter of Rights and Freedoms protects religious expression;

WHEREAS, places of worship provide a safe space for people to come together to express their religious beliefs;

WHEREAS, acts of violence and intimidation at or near places of worship create can cause people to be hesitant to exercise their rights due to fear and/or lack of safety;

WHEREAS, the City of Hamilton’s Community Safety and Well-Being Plan aims to create the community conditions where everyone is safe and has a sense of belonging;

WHEREAS, the City of Hamilton is a place where diversity and inclusivity are embraced and celebrated;

WHEREAS, the City of Hamilton respects the right to peaceful protest as a fundamental freedom afforded to all individuals. However, it also recognizes that any acts of violence, threats of violence or vandalism in the course of a protest are not protected by the Canadian Charter of Rights and Freedoms;

THEREFORE BE IT RESOLVED:

That staff be directed to prepare a report for Planning Committee’s consideration no later than Q1 2025, on the feasibility of the City of Hamilton adopting and enforcing a by-law to prohibit protests at Places of Worship and their facilities– all while balancing the fundamental importance of freedom of expression and freedom of assembly, with the safety and well-being of community members accessing these places of worship and their facilities.