



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 2, 2016
<b>SUBJECT/REPORT NO:</b>	Removal of the Heritage Conservation Easement Agreement from Part of Lots 8, 9 and 10 Plan 62M-1215, City of Hamilton, designated as Part 10, 11 and 13 on Plan 62R-20033, Flamborough (PED16026) (Ward 14)
<b>WARD(S) AFFECTED:</b>	Ward 14
<b>PREPARED BY:</b>	Chelsey Tyers Cultural Heritage Planner (905) 546-2424 Ext. 1202  Steve Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the request by Marianne Ramacieri (the property owner) to remove the Heritage Conservation Easement Agreement from Part of Lots 8, 9 and 10 Plan 62M-1215, City of Hamilton, designated as Part 10, 11 and 13 on Plan 62R-20033, in the City of Hamilton be **approved**;
- (b) That the City Solicitor be authorized and directed to remove the Heritage Conservation Easement Agreement from title of Part of Lots 8, 9 and 10 Plan 62M-1215, City of Hamilton, designated as Part 10, 11 and 13 on Plan 62R-20033, in the City of Hamilton at the expense of the property owner.

**EXECUTIVE SUMMARY**

The subject property known as Part of Lots 8, 9 and 10 Plan 62M-1215, City of Hamilton, designated as Part 10, 11 and 13 on Plan 62R-20033 is located in the former municipality of Flamborough in the City of Hamilton (see Appendix “A” and “B”). As per section 37(1) of the *Ontario Heritage Act*, a Heritage Conservation Easement Agreement was entered into between the City and the property owner on December 22, 2014 for the purposes of

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providing temporary protection to the registered archaeological site known as the John Green Site (AhHa-175).

Stage 1, 2 and 3 archaeological assessments (P066-039-2009; P018-0682-2014) were completed for the subject property as part of the Spencer Creeks Estates subdivision application (25T-200807). The Stage 3 archaeological assessment (P018-0682-2014) recommended a Stage 4 excavation of the archaeological site. The Heritage Conservation Easement Agreement was entered into at the request of the owners to formally protect the archaeological site located on the Spencer Creek Estates to allow for completion of the registration of the subdivision and preliminary grading to occur.

As per Section 2.2 of the Easement Agreement, which requires written approval from the City for any alteration of the subject property, the property owners requested permission to alter the subject property for the purposes of developing it. The submission included a Stage 4 archaeological assessment (P310-0080-2015) that satisfied the outstanding concerns of staff with respect to the John Green Site (AhHa-175). In accordance with the Easement Agreement, approval to alter the lands was granted on November 5, 2015 by the Director of Planning and Chief Planner.

Given that there are no further concerns with respect to archaeology, the Easement Agreement's purpose has been satisfied and is no longer needed. As such, staff are recommending removal of the Easement Agreement.

***Alternatives for Consideration – See Page 4***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The cost associated with removal of the Heritage Easement Agreement from title of the property will be the responsibility of the property owner.

**Staffing:** None.

**Legal:** Legal Services requires authorization to remove the heritage easement agreement from the title of the property.

**BACKGROUND**

Stage 1, 2 and 3 archaeological assessments (P066-039-2009; P018-0682-2014) were completed for the subject property as part of the Spencer Creek Estates subdivision application (25T-200807). The Stage 3 archaeological assessment (P018-0682-2014) recommended a Stage 4 excavation of the archaeological site with a temporary construction barrier of 20 m around the archaeological site in the interim while a Stage 4 assessment was being coordinated. As such, the Spencer Creek Estates subdivision was draft plan approved

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with the condition that the site be protected by a temporary 20 m buffer while a Stage 4 archaeological assessment was in the process of completion, to the satisfaction of the Director of Planning and Chief Planner.

In December 2014, the property owner wished to register the subdivision, but had not yet completed the Stage 4 archaeological assessment. In order to allow the subdivision to be registered and for preliminary grading to commence, the property owners requested that the City enter into an Easement Agreement to temporarily protect the archaeological site. The Easement Agreement was entered into on December 22, 2014.

As part of the terms of the Easement Agreement, the City can consent to alterations to the subject property. As such, the property owner submitted the Stage 4 archaeological assessment (see Appendix "C") to staff with a request to grade and proceed with residential development on the subject property. In accordance with the Easement Agreement, the Director of Planning and Chief Planner issued approval of a Heritage Permit to grade and proceed with development of the lands on November 5, 2015.

Now that the archaeological concerns have been addressed, both the property owner and staff wish to remove the Easement Agreement from title.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Urban Hamilton Official Plan:**

Volume 1, Section B.3.4 - Cultural Heritage Resources Policies of the Urban Hamilton Official Plan (UHOP) states that the City shall "protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes" (B.3.4.2.1(a)), and "prior to site alteration or soil disturbance relating to a *Planning Act* application, any required archaeological assessment must be approved, in writing by the City, indicating there are no further archaeological concerns with the property or concurring with the final resource management strategy to be implemented" (B.3.4.4.5). Further, the policy goals state that "to conserve these resources, avoidance and protection in situ shall be the preferred conservation management strategies. Where it has been demonstrated by an archaeological assessment by a licensed archaeologist that avoidance is not a viable option, alternative mitigation measures shall be agreed upon by the Province and the City" (B.3.4.4.7).

These policies demonstrate Council's commitment to the identification, protection, and conservation of the cultural heritage resources including registered archaeological sites. The recommendations of this Report meet the intent of these policies.

## **RELEVANT CONSULTATION**

### **Ministry of Tourism, Culture and Sport**

The Ministry of Tourism, Culture and Sport reviews all archaeological assessments completed in Ontario to ensure that they meet the Standards and Guidelines for Consultant Archaeologists. The Ministry confirmed that the Stage 4 archaeological assessment has been completed to their satisfaction in a letter dated September 21, 2015 (see Appendix “D”)

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The recommendation of this Report is to remove the Easement Agreement from the subject property. The purpose of the Easement Agreement was to protect the registered archaeological site known as the John Green Site (AhHa-175) while further archaeological assessment work was being coordinated. As the property owners have completed a Stage 4 archaeological assessment to the satisfaction of staff, the Easement Agreement is no longer necessary.

A Stage 4 archaeological assessment, dated September 9, 2015 was submitted to the City of Hamilton and concurrently to the Ministry of Tourism, Culture and Sport. Staff have reviewed the Stage 4 archaeological assessment report and are satisfied with the findings. The John Green Site consists of a Euro-Canadian archaeological site that appears to date back to the first half of the nineteenth century. A total of 2253 artifacts were recovered from the site, 2249 of which were of historic Euro-Canadian origin and five pre-contact Aboriginal artifacts. The Stage 4 archaeological assessment has resulted in the complete removal of the John Green Site, the artifacts from which are catalogued and stored with the Earthworks Archaeological Services firm. As such, staff concur with the recommendation in the Stage 4 report that the site is now free of archaeological concern.

### **Conclusions:**

As the Stage 4 mitigation report has satisfied the municipal concern with respect to archaeology, the Easement Agreement does not serve any further purpose. As such, staff recommend that it be terminated and removed from title of the property. Any costs associated with the removal of the Heritage Easement Agreement from title will be the responsibility of the property owner.

## **ALTERNATIVES FOR CONSIDERATION**

Council may refuse to remove the Easement Agreement. It would remain on title of the property, however, as there are no additional archaeological concerns, it would not impede development of the site.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

**Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

**Strategic Objective**

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A”: Location Map

Appendix “B”: Plan 62R-20033

Appendix “C”: Stage 4 Mitigation Preliminary Excavation Report John Green Site (AhHa-175)  
Part of Lot 7, Concession 2 West Flamborough Township, City of Hamilton,  
Wentworth County

Appendix “D”: Letter from the Ministry of Tourism, Culture and Sport

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