




Hamilton

CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT
General Manager's Office

TO:	Chair and Members West Harbour Development Sub-Committee
COMMITTEE DATE:	December 18, 2019
SUBJECT/REPORT NO:	Pier 6 and 7 Land Disposition Plan (PED19191(b)) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Chris Phillips 905-546-2424 Ext. 5304 Ray Kessler 905-546-2424 Ext. 7019 David McCullagh (905) 546-242 Ext.1647
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Area 1 comprised of approximately 1,066.00 square meters; Area 2 comprised of approximately 1,483.38 square meters; Area 3 comprised of approximately 1,221.29 square meters; and Area 4 comprised of approximately 1,342.50 square meters be individually severed from the portion of the lands commonly known as Piers 5, 6 & 7 comprising part of the West Harbour and more specifically all part of PIN 175790165 (LT) as depicted in Appendix "A" attached to Report PED19191(b), (final property limits to be determined by survey) and declared surplus to the requirements of the City of Hamilton in accordance with the "Procedural By-law for the Sale of Land", being By-law No. 04-299;
- (b) That staff from the Real Estate Section of the Economic Development Division of the Planning and Economic Development Department be authorized and directed to sell the lands known as Areas 1 to 4 of Pier 6 and 7, in accordance with the "Procedural By-law for the Sale of Land", being By-Law 04-299, and include the proposed terms and conditions of a structured transactional offering as outlined in Report PED19191(b);
- (c) That the General Manager, Planning and Economic Development Department, or designate, be authorized and directed to negotiate and enter into the relevant real estate agreements (e.g. Agreement of Purchase and Sale), on terms and

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conditions consistent with those outlined in Report PED19191(b), including the imposition of covenants and contractual performance obligations, and such other terms and conditions deemed appropriate by the General Manager, Planning and Economic Development;

- (d) That the net proceeds of the sale of each of the lands known as Area 1 to 4 of Pier 6 and 7 be deposited in capital project 4411606002 entitled "West Harbour Real Estate Disposition" and that all associated legal costs, appraisal fees, real estate and legal fees, environmental and geotechnical studies (if required), survey and property maintenance costs related to each of the subject properties be sourced from this account;
- (e) That the City Solicitor be authorized to complete the transactions for the disposition of the lands known as Area 1 to 4 of Pier 6 and 7 on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions on such terms as she considers reasonable;
- (f) That Mayor and Clerk be authorized to execute any resultant necessary documents associated to the disposition of the lands known as Area 1 to 4 of Pier 6 and 7 as contemplated in this Report PED19191(b), in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

On October 9, 2019, Council approved the General Issues Committee (GIC) Report which included the following motion from the West Harbour Development Sub-Committee Report 19-002:

"That staff be directed to immediately market the individual development blocks for Piers 6 and 7 for sale to the private sector".

Staff Report PED19191(a) identified the general strategy to implement this Council direction to immediately market the individual development blocks for sale to the private sector; specified a work plan and timelines for the execution; highlighted several key background elements that are required prior to marketing the properties; and, committed to reporting back to the West Harbour Development Sub-Committee with recommendations for the conditions of sale prior to going to market.

Subsequently, on November 27, 2019, Council approved GIC Report 19-024 including the Report PED19191(a) entitled Piers 6 and 7 Commercial Village Activation Plan, which include the following direction:

“That staff report back to the West Harbour Development Sub-Committee with draft sale documents for approval, including recommendations on the disposition phasing and conditions of sale that seek to ensure that development of any disposed lands happens in a timely fashion, contributes to the success and vibrancy of the public space on Piers 6 and 7, provides a high quality of design, and recognizes Hamilton’s declared climate emergency by adhering to environmentally sustainable building principles.”

Report PED19191(b) addresses the Council direction for staff to report back to the West Harbour Development Sub-Committee for approval on a recommended disposition phasing and conditions of sale for the identified City-owned properties. Appendix “A” to Report PED19191(b) is a Site Map of the Pier 6 and 7 development-blocks.

The real estate land disposition approach will involve a structured offering process whereby the best valued offer in both monetary and developmental value to the City, that meets the prescribed conditions will be chosen to negotiate towards entering into an Agreement of Purchase and Sale.

Specifically, staff recommends the following non-monetary conditions be incorporated as part of the structured offering process:

- i. Construction must have commenced within three years from real estate transaction closing;
- ii. Limitation of the purchaser to sell or transfer the property/properties for a period of 10-years;
- iii. Block-by-block disposition will take place in a singular process;
- iv. Land-use and curation of uses will be controlled by current planning framework; and,
- v. Within the defined structured offering process, notable consideration will be given to bids that commit to design and construction techniques which demonstrate a consideration for environmental impacts and sustainable development.

Staff believe the phasing plan and conditional elements places the City in a position to maximize value that may be realized from the disposition of these properties depicted in Appendix “A”, completing transactions that reflect fair market-value, while addressing other key non-financial elements as detailed in the Analysis and Rationale for Recommendation section of Report PED19191(b).

Alternatives for Consideration – N/A

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FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no operational or capital financial implications related to the recommendations in this Report PED19191(b). Any costs related to the undertaking of these recommendations in Report PED19191(b) will be recovered from the proceeds of sale.

Staffing: There are no additional staffing implications arising from these recommendations.

It is anticipated that the recommendations will be implemented by existing West Harbour staff and staff from the Real Estate Section of the Economic Development Division of the Planning and Economic Development Department.

Legal: Legal Services Division will work with Real Estate in the preparation of any required documents.

HISTORICAL BACKGROUND

On October 9, 2019, Council approved General Issues Committee (GIC) Report which included the following motion from the West Harbour Development Sub-Committee Report 19-002:

“That staff be directed to immediately market the individual development blocks for Piers 6 and 7 for sale to the private sector.”

On November 27, 2019, Council approved GIC Report 19-024 including the Report PED19191(a) entitled Piers 6 and 7 Commercial Village Activation Plan, with direction as follows:

- (i) That staff reports back to the West Harbour Development Sub-Committee with draft sale documents for approval, including recommendations on the disposition phasing and conditions of sale that seek to ensure that development of any disposed lands happens in a timely fashion, contributes to the success and vibrancy of the public space on Piers 6 and 7, provides a high quality of design, and recognizes Hamilton’s declared climate emergency by adhering to environmentally sustainable building principles; and,
- (ii) That staff from the Tourism and Culture Division be directed to prepare and execute an agreement with an external entity to a maximum value of \$40 K for the implementation of operating and programming temporary animation of the Piers 5 to 8 lands, with nominal cost for leasing of the lands, for the period beginning in

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the Spring season of 2020 to approximately the end of the Fall season 2020, to be funded through Project 4411606003 (West Harbour Community Engagement) in a manner and on conditions deemed appropriate by the General Manager of the Planning and Economic Development Department, and in a form acceptable to the City Solicitor.

Report PED19191(a) identified several steps to be taken to prepare the lands for disposition, including the following due-diligence components expectations:

- (a) Completion of a Reference Plan and survey of the four development blocks;
- (b) Identification of any environmental, soil stability, servicing and any other issues that may affect the constructability of the site;
- (c) Land appraisal of the four development blocks; and,
- (d) Establishment of the conditions to be incorporated into an agreement of purchase and sale.

The expected timeframes are as follows:

i.	Undertake Due Diligence: -Survey -Studies -Appraisal -APS	Nov. 2019–Feb. 2020
ii.	Preparation of Conditions of Sale	Oct. 2019-Dec. 2019
iii.	Report to WHD Sub-Committee	Dec. 2019
iv.	Develop Real Estate Marketing Documents	Feb. 2020
v.	Real Estate Listing Open Period	Feb. 2020-March 2020
vi.	Selection of Purchaser	April 2020
vii.	Purchaser Due Diligence Period	April-2020-July 2020
viii.	Property Closing Date	Dec. 2020

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

City Council, at its meeting of November 24, 2004, adopted the City's Portfolio Management Strategy Plan, which established a formalized process to be consistently applied across all areas of the City to guide the management of the City's real property. In accordance with the City's Portfolio Management Strategy, By-law 14-202, property

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no longer required for municipal programs is declared surplus by Council and is disposed of in accordance with this policy. Properties are to be sold at fair market value in accordance with "Procedural By-Law for the Sale of Land", being By-Law 04-299.

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The West Harbour Waterfront Recreation Master Plan (WHWRMP) envisioned four new development blocks to be created within the Pier 6 and 7 lands, as identified in Appendix "A". The identified individual development blocks have specific land use designations and zoning requirements, are self-contained within a relatively small area, will be adjacent to city-owned public space, and are limited by both density and height restrictions.

The real estate land disposition approach will involve a structured offering process with the purpose of achieving the following objectives:

- Maximize public exposure and awareness to respond to the real estate development opportunity;
- Achieve the highest net proceeds;
- Secure key performance outcomes by the use of restrictive covenants and contracted performance.

The framework will include the following elements:

1. Development and physical construction must have commenced within three years from real estate transaction closing date on Area 1 and Area 4 or eight years for Area 2 and Area 3 (as identified in Appendix "A"), with extension on reasonable grounds. Failure to meet these time-frames, at the City's option, may result in the property reverting to City ownership;
2. So as to discourage speculation, if a purchaser has not progressed with the development and physical construction within the prescribed time frame from the real estate closing date, a purchaser may not otherwise sell or transfer ownership of a property without first obtaining the City's approval, which may be arbitrarily withheld; and the City shall then, at its option, have the right to purchase back the property at its original transacted purchase price;
3. Development plans must address and demonstrate alignment with the WHWRMP and design guidelines;

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4. Properties are being sold “as is”. A purchaser will be responsible for managing and funding the entire cost of all development and site conditions requirements, including, but not limited to, any environmental studies and issues, geotechnical studies and issues, site conditions and servicing, development charges and related fees;
5. Block-by-block Disposition will take place in a singular process. All four development-blocks will be offered at same time, either together or as stand-alone individual parcels.
6. Land-use will be controlled by current planning framework. There will be no further restrictions on land-use, aside from the approved planning framework (i.e. Secondary Plan, Zoning, Urban Design Study, Site Plan);
7. The marketing process will promote the City’s “vision” of the Piers 6 and 7 Commercial Village, as described within the WHWRMP. Restriction will be established by covenant respecting any proposed application to seek revisions to any Planning instruments (e.g. zoning, density limits, building heights etc.) either by consent or appeal. The properties are to remain as open space and unencumbered, until development occurs; and,
8. Restrictive covenants will be placed on the lands committing to design requirements that promote sustainable site and building designs that address building energy efficiency, to be based on the current City of Toronto Green Standards which requires 15% improvement over the Ontario Building code (OBC).

ALTERNATIVES FOR CONSIDERATION – N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

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Built Environment and Infrastructure

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

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Strategic Priority and Objective

- 1.1 Continue to grow the non-residential tax base.
- 1.2 Provide opportunity for private sector investment and partnership towards the envisioned West Harbour re-development consistent with WHWRMP, Minutes of Settlement, Local Planning Appeal Tribunal PL140314, and Appendix "B" to Report PED19191(b).
- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.

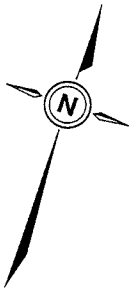
APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED19191(b) – Pier 6 and 7 Site Map
Appendix "B" to Report PED19191(b) – Blocking Land Use Brief

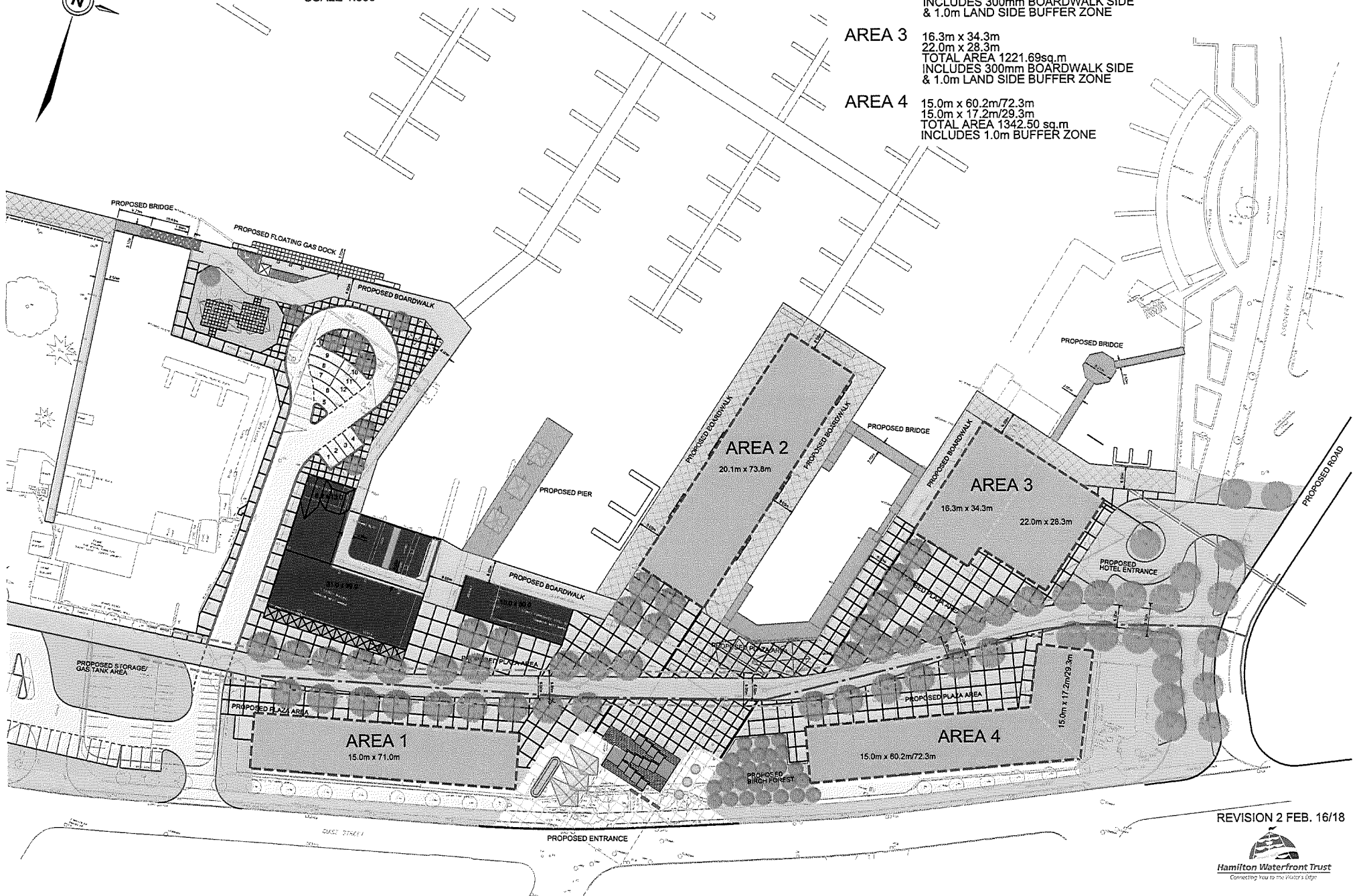
PLAN SHOWING

PROPOSED BUILDING ENVELOPES FOR PIER 5, 6 & 7

SCALE 1:600

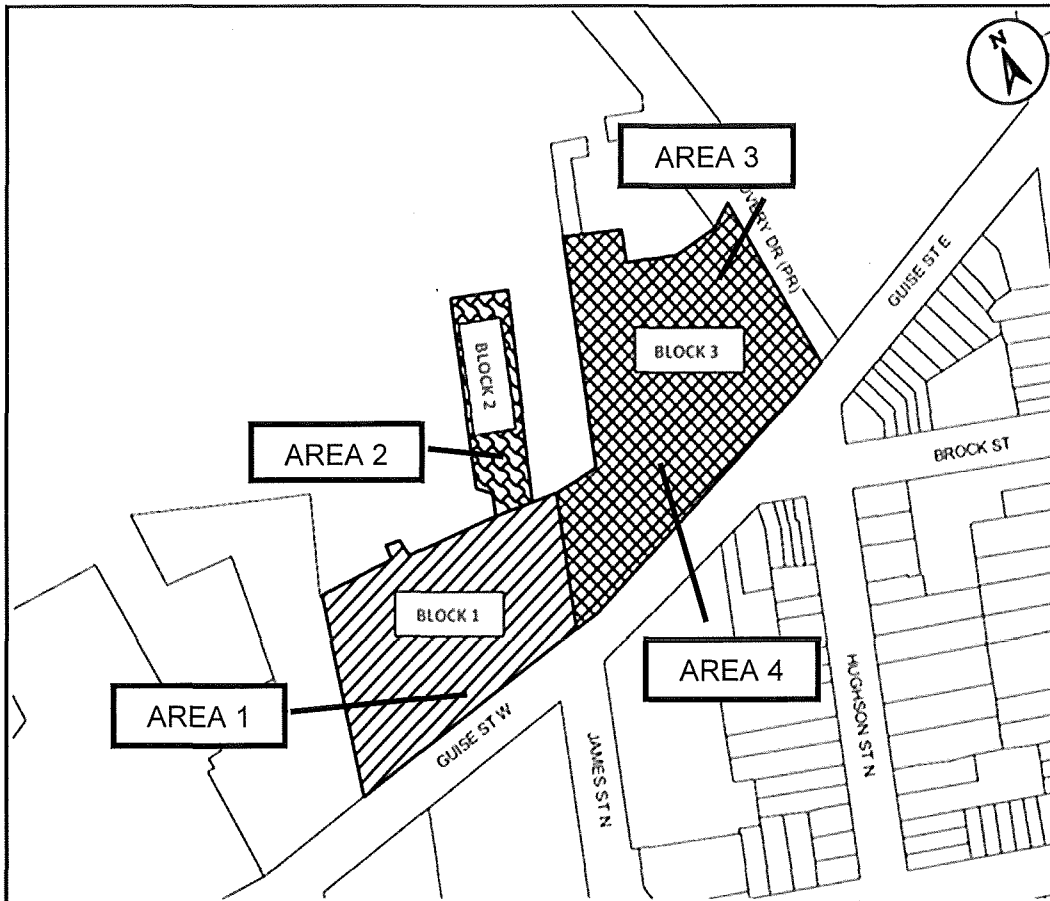


- AREA 1 15.0m x 71.0m
TOTAL AREA = 1065.00sq.m
INCLUDES 1.0m BUFFER ZONE
- AREA 2 20.1m x 73.8m
TOTAL AREA 1483.38sq.m
INCLUDES 300mm BOARDWALK SIDE
& 1.0m LAND SIDE BUFFER ZONE
- AREA 3 16.3m x 34.3m
22.0m x 28.3m
TOTAL AREA 1221.69sq.m
INCLUDES 300mm BOARDWALK SIDE
& 1.0m LAND SIDE BUFFER ZONE
- AREA 4 15.0m x 60.2m/72.3m
15.0m x 17.2m/29.3m
TOTAL AREA 1342.50 sq.m
INCLUDES 1.0m BUFFER ZONE



REVISION 2 FEB. 16/18

Block Land Use Brief



SECONDARY PLAN & GUIDELINES:

Official Plan Amendment No. 233 – respecting West Harbour Secondary Plan

Local Planning Appeal Tribunal – Minutes of Settlement PL140314

Zoning By-law	Block 1: F-S/1641-H	Block 2: F-S/1642-H	Block 3: F-S/1641-H
Permitted Uses	<ul style="list-style-type: none"> - Residential (above the ground floor only, a non-residential use must be at grade level) - Offices (above the ground floor only) - Retail store - Bank machine - Photographer's/artist's studio - Restaurant, tavern or refreshment stand - Outdoor patio - Sailing, boating or navigational school (and ancillary small-scale commercial uses such as marine supply stores, boat service and repair shops) - Establishment for the sale of bait, the sale and rental of recreational equipment - Transient / visitor docks 	Same uses as Block 1 <u>except</u> offices are <u>not</u> permitted	Same uses as Block 1 plus the following: <ul style="list-style-type: none"> - one hotel is permitted - Personal services only if accessory to a hotel - Offices above the ground floor are only permitted within a building that has frontage on Guise St.
Prohibited Uses	<ul style="list-style-type: none"> - Drive through facilities - Dry docks, dry sail, on-land boat storage 	Same as Block 1	Same as Block 1
Height	2 storeys (11.0 m) measured from the front façade facing Guise St., or 3 storeys (14.0m) measured from the rear façade facing Hamilton Harbour	3 storeys	3 storeys (14.0m) measured from the front façade facing Guise St., or 4 storeys (19.0m) measured from the rear façade facing Hamilton Harbour
Holding Provision	Holding provision can be removed conditional upon the implementation of the NEN Traffic Management Plan and the completion and approval of a servicing study.		