



Hamilton

## COMMITTEE OF ADJUSTMENT

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5  
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202  
E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

# **NOTICE OF PUBLIC HEARING**

## **Application for Consent/Land Severance**

**APPLICATION NUMBER:** HM/B-20:42

**SUBJECT PROPERTY:** 298 East 43<sup>rd</sup> St., Hamilton

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**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
- 

**APPLICANT(S):** Ken Bekendam on behalf of the owners N. VanderVeen & W. Wilkinson

**PURPOSE OF APPLICATION:** To permit the establishment of an easement for access purposes

**Easement lands: (shown as Part 3)**

1.44m<sup>±</sup> x 24.50m<sup>±</sup> and an area of 35.28m<sup>2±</sup>

**Retained lands:**

7.689m<sup>±</sup> x 31.65m<sup>±</sup> and an area of 208.07m<sup>2±</sup>

The Committee of Adjustment will hear this application on:

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**DATE:** Thursday, August 27th, 2020

**TIME:** 3:35 p.m.

**PLACE:** Via video link or call in (see attached sheet for details)

**To be streamed at [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment) for viewing purposes only**

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### **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, including deadlines for submitting to be seen by the Committee.

**Orally:** If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

### **MORE INFORMATION**

For more information on this matter, including access to drawings illustrating this request:

HM/B-20:42  
PAGE 2

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

DATED: August 11th, 2020



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.***





**Hamilton**

Planning and Economic Development Department  
Planning Division

RECEIVED  
MAY 06 2020  
CITY OF HAMILTON

Committee of Adjustment  
City Hall  
5th floor, 71 Main Street West  
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424, ext. 4221  
Fax (905) 546-4202

**APPLICATION FOR CONSENT TO SEVER LAND  
UNDER SECTION 53 OF THE PLANNING ACT**

20-173607  
Office Use Only

Date Application Received: complete: July 1/20	Date Application Deemed Complete:	Submission No.: HM/B-20-42	File No.:
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**1 APPLICANT INFORMATION**

1.1, 1.2

Registered Owners(s)			
Applicant(s)*			
Agent or Solicitor			
		Business ( )	
		Fax: ( )	
		E-mail:	

\* Owner's authorisation required if the applicant is not the owner.

1.3 All correspondence should be sent to ☐ Owner ☒ Applicant ☐ Agent/Solicitor

**2 LOCATION OF SUBJECT LAND** Complete the applicable lines

2.1 Area Municipality Hamilton	Lot	Concession	Former Township
Registered Plan N°.	Lot(s)	Reference Plan N°.	Part(s)
Municipal Address 298 East 43rd St Hamilton			Assessment Roll N°. 251806060204170

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)

a) Urban Area Transfer (do not complete Section 10):

- ☐ creation of a new lot  
☐ addition to a lot  
☒ an easement

- Other: ☐ a charge  
☐ a lease  
☐ a correction of title

b) Rural Area / Rural Settlement Area Transfer (Section 10 must be completed):

- ☐ creation of a new lot  
☐ creation of a new non-farm parcel  
(i.e. a lot containing a surplus farm dwelling  
resulting from a farm consolidation)  
☐ addition to a lot
- Other: ☐ a charge  
☐ a lease  
☐ a correction of title  
☒ an easement

\* 3.2 Name of person(s) if known, to whom land or interest in land is to be transferred, leased or charged \_\_\_\_\_

3.3 If a lot addition, identify the lands to which the parcel will be added: \_\_\_\_\_

**4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION**

**4.1 Description of land intended to be Severed:**

Frontage (m)	Depth (m)	Area (m <sup>2</sup> or ha)
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Existing Use of Property to be severed:

- ☐ Residential  
☐ Agriculture (includes a farm dwelling)  
☐ Other (specify) \_\_\_\_\_
- ☐ Industrial  
☐ Agricultural-Related  
☐ Commercial  
☒ Vacant

Proposed Use of Property to be severed:

- ☐ Residential  
☐ Agriculture (includes a farm dwelling)  
☐ Other (specify) \_\_\_\_\_
- ☐ Industrial  
☐ Agricultural-Related  
☐ Commercial  
☐ Vacant

Building(s) or Structure(s):

Existing: \_\_\_\_\_

Proposed: \_\_\_\_\_

Type of access: (check appropriate box)

- ☐ provincial highway  
☐ municipal road, seasonally maintained  
☐ municipal road, maintained all year
- ☐ right of way  
☐ other public road

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) \_\_\_\_\_

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) \_\_\_\_\_

**4.2 Description of land intended to be Retained:**

Frontage (m)	Depth (m)	Area (m <sup>2</sup> or ha)
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Existing Use of Property to be retained:

- ☐ Residential  
☐ Agriculture (includes a farm dwelling)  
☐ Other (specify) \_\_\_\_\_
- ☐ Industrial  
☐ Agricultural-Related  
☐ Commercial  
☐ Vacant

298 East 43rd

b) Rural Area / Rural Settlement Area Transfer (Section 10 must be completed):

- ☐ creation of a new lot  
☐ creation of a new non-farm parcel  
(i.e. a lot containing a surplus farm dwelling  
resulting from a farm consolidation)  
☐ addition to a lot
- Other: ☐ a charge  
☐ a lease  
☐ a correction of title  
☒ an easement

\* 3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged: [REDACTED]

3.3 If a lot addition, identify the lands to which the parcel will be added:

N/A

4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Description of land intended to be Severed:

Frontage (m) 1.44	Depth (m) 24.50	Area (m <sup>2</sup> or ha) 35.28
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Existing Use of Property to be severed:

- ☒ Residential  
☐ Agriculture (includes a farm dwelling)  
☐ Other (specify) \_\_\_\_\_
- ☐ Industrial  
☐ Agricultural-Related  
☐ Commercial  
☒ Vacant

Proposed Use of Property to be severed:

- ☒ Residential  
☐ Agriculture (includes a farm dwelling)  
☐ Other (specify) \_\_\_\_\_
- ☐ Industrial  
☐ Agricultural-Related  
☐ Commercial  
☐ Vacant

Building(s) or Structure(s):

Existing: Existing house to remain

Proposed: \_\_\_\_\_

Type of access: (check appropriate box)

- ☐ provincial highway  
☐ municipal road, seasonally maintained  
☒ municipal road, maintained all year
- ☐ right of way  
☐ other public road

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) \_\_\_\_\_

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) \_\_\_\_\_

4.2 Description of land intended to be Retained:

Frontage (m) 7.689	Depth (m) 31.65	Area (m <sup>2</sup> or ha) 208.07 m <sup>2</sup>
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Existing Use of Property to be retained:

- ☒ Residential  
☐ Agriculture (includes a farm dwelling)  
☐ Other (specify) \_\_\_\_\_
- ☐ Industrial  
☐ Agricultural-Related  
☐ Commercial  
☐ Vacant

Proposed Use of Property to be retained:

- ☐ Residential ☐ Industrial ☐ Commercial  
☐ Agriculture (includes a farm dwelling) ☐ Agricultural-Related ☐ Vacant  
☐ Other (specify) \_\_\_\_\_

Building(s) or Structure(s):

Existing: \_\_\_\_\_

Proposed: \_\_\_\_\_

Type of access: (check appropriate box)

- ☐ provincial highway ☐ right of way  
☐ municipal road, seasonally maintained ☐ other public road  
☐ municipal road, maintained all year

Type of water supply proposed: (check appropriate box)

- ☐ publicly owned and operated piped water system ☐ lake or other water body  
☐ privately owned and operated individual well ☐ other means (specify) \_\_\_\_\_

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): \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable): neighbourhoods

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

The existing residential use shall remain.  
This is an application for an easement to access  
legal parking spaces in rear yard.

5.2 What is the existing zoning of the subject land? C - Urban Protected Residential  
If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number? \_\_\_\_\_

5.3 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	<input type="checkbox"/>	N/A

Proposed Use of Property to be retained:

- ☒ Residential ☐ Industrial ☐ Commercial  
☐ Agriculture (includes a farm dwelling) ☐ Agricultural-Related ☐ Vacant  
☐ Other (specify) \_\_\_\_\_

Building(s) or Structure(s):

Existing: Existing house to remain

Proposed: \_\_\_\_\_

Type of access: (check appropriate box)

- ☐ provincial highway ☐ right of way  
☐ municipal road, seasonally maintained ☐ other public road  
☒ municipal road, maintained all year

Type of water supply proposed: (check appropriate box)

- ☒ publicly owned and operated piped water system ☐ lake or other water body  
☐ privately owned and operated individual well ☐ other means (specify) \_\_\_\_\_

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): \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable): neighbourhoods

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

The existing residential use shall remain.

This is an application for an easement to access  
legal parking spaces in rear yard.

5.2 What is the existing zoning of the subject land? C - Urban Protected Residential

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number? \_\_\_\_\_

5.3 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	<input type="checkbox"/>	N/A

A land fill	<input type="checkbox"/>	N/A
A sewage treatment plant or waste stabilization plant	<input type="checkbox"/>	N/A
A provincially significant wetland	<input type="checkbox"/>	N/A
A provincially significant wetland within 120 metres	<input type="checkbox"/>	N/A
A flood plain	<input type="checkbox"/>	N/A
An industrial or commercial use, and specify the use(s)	<input type="checkbox"/>	N/A
An active railway line	<input type="checkbox"/>	N/A
A municipal or federal airport	<input type="checkbox"/>	N/A

## 6 PREVIOUS USE OF PROPERTY

- ☒ Residential
 ☐ Industrial
 ☐ Commercial  
☐ Agriculture
 ☐ Vacant
 ☐ Other (specify)

- 6.1 If Industrial or Commercial, specify use \_\_\_\_\_
- 6.2 Has the grading of the subject land been changed by adding earth or other material, i.e., has filling occurred?  
☐ Yes ☒ No ☐ Unknown
- 6.3 Has a gas station been located on the subject land or adjacent lands at any time?  
☐ Yes ☒ No ☐ Unknown
- 6.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?  
☐ Yes ☒ No ☐ Unknown
- 6.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?  
☐ Yes ☐ No ☒ Unknown
- 6.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or biosolids was applied to the lands?  
☐ Yes ☒ No ☐ Unknown
- 6.7 Have the lands or adjacent lands ever been used as a weapons firing range?  
☐ Yes ☒ No ☐ Unknown
- 6.8 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational/non-operational landfill or dump?  
☐ Yes ☒ No ☐ Unknown
- 6.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (e.g., asbestos, PCB's)?  
☐ Yes ☒ No ☐ Unknown
- 6.10 Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?  
☐ Yes ☒ No ☐ Unknown
- 6.11 What information did you use to determine the answers to 6.1 to 6.10 above?  
existing residential use for 50+ years
- 6.12 If previous use of property is industrial or commercial or if YES to any of 6.2 to 6.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.  
 Is the previous use inventory attached?  
☐ Yes ☐ No

## 7 PROVINCIAL POLICY

- 7.1 a) Is this application consistent with the Policy Statements issued under subsection of the *Planning Act*? (Provide explanation)

☒ Yes ☐ No

- b) Is this application consistent with the Provincial Policy Statement (PPS)?  
☒ Yes      ☐ No      (Provide explanation)

- c) Does this application conform to the Growth Plan for the Greater Golden Horseshoe?  
☒ Yes      ☐ No      (Provide explanation)

- d) Are the subject lands within an area of land designated under any provincial plan or plans? (If YES, provide explanation on whether the application conforms or does not conflict with the provincial plan or plans.)  
☒ Yes      ☐ No

- e) Are the subject lands subject to the Niagara Escarpment Plan?  
☐ Yes      ☒ No

If yes, is the proposal in conformity with the Niagara Escarpment Plan?  
☐ Yes      ☐ No  
(Provide Explanation)

- f) Are the subject lands subject to the Parkway Belt West Plan?  
☐ Yes      ☒ No

If yes, is the proposal in conformity with the Parkway Belt West Plan?  
☐ Yes      ☒ No      (Provide Explanation)

- g) Are the subject lands subject to the Greenbelt Plan?  
☐ Yes      ☒ No

If yes, does this application conform with the Greenbelt Plan?  
☐ Yes      ☐ No      (Provide Explanation)

## 8 HISTORY OF THE SUBJECT LAND

8.1 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, indicate the appropriate application file number and the decision made on the application.

8.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.

8.3 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.

\* 8.4 How long has the applicant owned the subject land?

17 Years

\* 8.5 Does the applicant own any other land in the City? ☐ Yes ☒ No

If YES, describe the lands in "11 - Other Information" or attach a separate page.

## 9 OTHER APPLICATIONS

9.1 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 if known, specify file number and status of the application.

9.2 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 if known, specify file number and status of the application(s).

File number \_\_\_\_\_ Status \_\_\_\_\_

## 10 RURAL APPLICATIONS

10.1 Rural Hamilton Official Plan Designation(s)

☐ Agricultural ☐ Rural ☐ Specialty Crop  
☐ Mineral Aggregate Resource Extraction ☐ Open Space ☐ Utilities  
☐ Rural Settlement Area (specify) \_\_\_\_\_

Settlement Area

Designation

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 operation.

10.2 Type of Application (select type and complete appropriate sections)

☐ Agricultural Severance or Lot Addition  
☐ Agricultural Related Severance or Lot Addition  
☐ Rural Resource-based Commercial Severance or Lot Addition  
☐ Rural Institutional Severance or Lot Addition

(Complete Section 10.3)

☐ Rural Settlement Area Severance or Lot Addition

☐ Surplus Farm Dwelling Severance from an Abutting Farm Consolidation (Complete Section 10.4)

☐ Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation (Complete Section 10.5)

### 10.3 Description of Lands

#### a) Lands to be Severed:

Frontage (m): (from Section 4.1)	Area (m <sup>2</sup> or ha): (from in Section 4.1)
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Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

#### b) Lands to be Retained:

Frontage (m): (from Section 4.2)	Area (m <sup>2</sup> or ha): (from Section 4.2)
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Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

### 10.4 Description of Lands (Abutting Farm Consolidation)

#### a) Location of abutting farm:

\_\_\_\_\_  
(Street) (Municipality) (Postal Code)

#### b) Description abutting farm:

Frontage (m):	Area (m <sup>2</sup> or ha):
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Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

#### c) Description of consolidated farm (excluding lands intended to be severed for the surplus dwelling):

Frontage (m):	Area (m <sup>2</sup> or ha):
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Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

#### d) Description of surplus dwelling lands proposed to be severed:

Frontage (m): (from Section 4.1)	Area (m <sup>2</sup> or ha): (from Section 4.1)
----------------------------------	---

Front yard set back: \_\_\_\_\_

#### e) Surplus farm dwelling date of construction:

☐ Prior to December 16, 2004 ☐ After December 16, 2004

#### f) Condition of surplus farm dwelling:

☐ Habitable ☐ Non-Habitable

#### g) Description of farm from which the surplus dwelling is intended to be severed (retained parcel):

Frontage (m): (from Section 4.2)	Area (m <sup>2</sup> or ha): (from Section 4.2)
----------------------------------	---

Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

### 10.5 Description of Lands (Non-Abutting Farm Consolidation)

#### a) Location of non-abutting farm

\_\_\_\_\_  
(Street) (Municipality) (Postal Code)

b) Description of non-abutting farm

Frontage (m):	Area (m2 or ha):
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Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

c) Description of surplus dwelling lands intended to be severed:

Frontage (m): (from Section 4.1)	Area (m2 or ha): (from Section 4.1)
----------------------------------	-------------------------------------

Front yard set back: \_\_\_\_\_

d) Surplus farm dwelling date of construction:

☐ Prior to December 16, 2004 ☐ After December 16, 2004

e) Condition of surplus farm dwelling:

☐ Habitable ☐ Non-Habitable

f) Description of farm from which the surplus dwelling is intended to be severed (retained parcel):

Frontage (m): (from Section 4.2)	Area (m2 or ha): (from Section 4.2)
----------------------------------	-------------------------------------

Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

## 11 OTHER INFORMATION

Is there any other information that you think may be useful to the Committee of Adjustment or other agencies in reviewing this application? If so, explain below or attach on a separate page.

There is a shared driveway that serves both  
298 East 43rd and 296 East 43rd. There is no  
easement in place to allow legal access to their  
rear parking spaces.

## 12 SKETCH (Use the attached Sketch Sheet as a guide)

12.1 The application shall be accompanied by a sketch showing the following in metric units:

- the boundaries and dimensions of any land abutting the subject land that is owned by the owner of the subject land;
- the approximate distance between the subject land and the nearest township lot line or landmark such as a bridge or railway crossing;
- the boundaries and dimensions of the subject land, the part that is intended to be severed and the part that is intended to be retained;
- the location of all land previously severed from the parcel originally acquired by the current owner of the subject land;
- the approximate location of all natural and artificial features (for example, buildings, barns, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that,
  - are located on the subject land and on land that is adjacent to it, and
  - in the applicant's opinion, may affect the application;
- the current uses of land that is adjacent to the subject land (for example, residential, agricultural or commercial);
- the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private

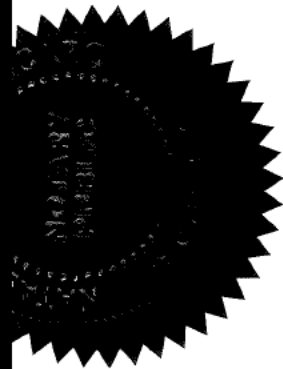
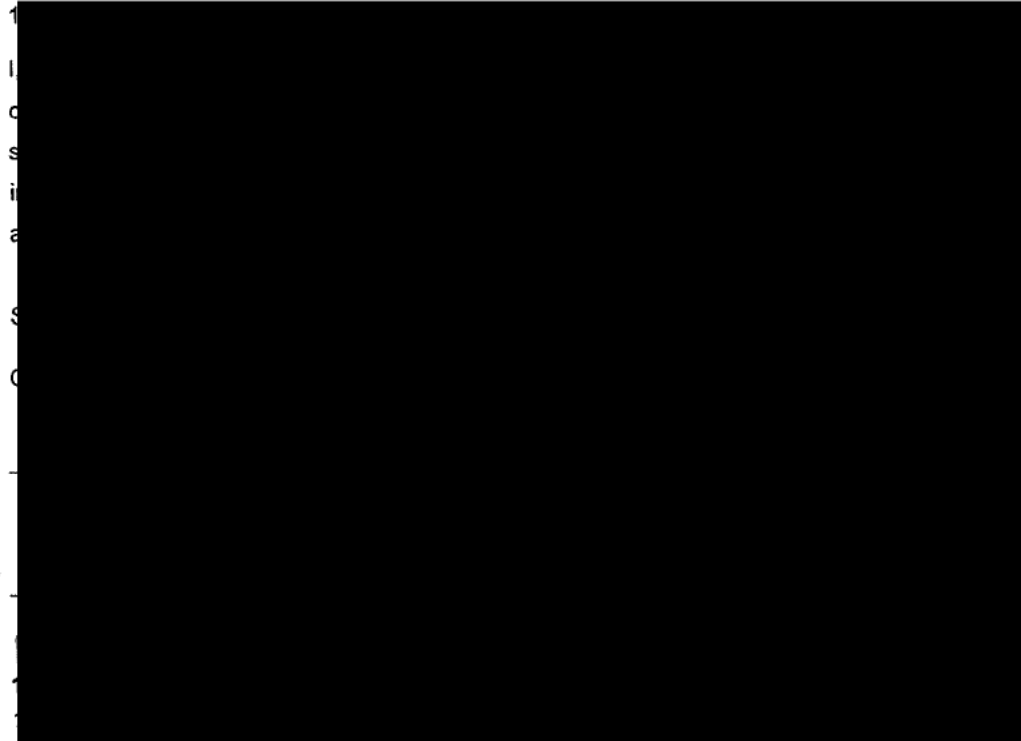
road or a right of way;

(h) the location and nature of any easement affecting the subject land.

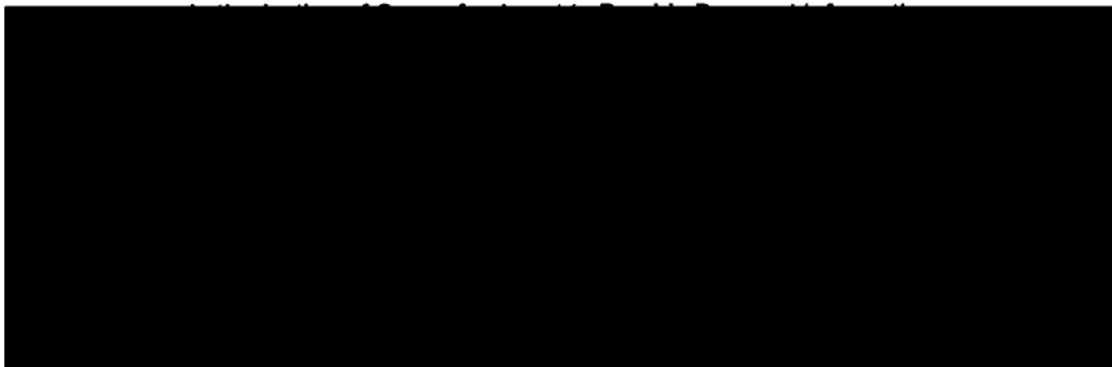
**13 ACKNOWLEDGEMENT CLAUSE**



**14 AFFIDAVIT OR SWORN DECLARATION**



*authorization set out below must be completed.*



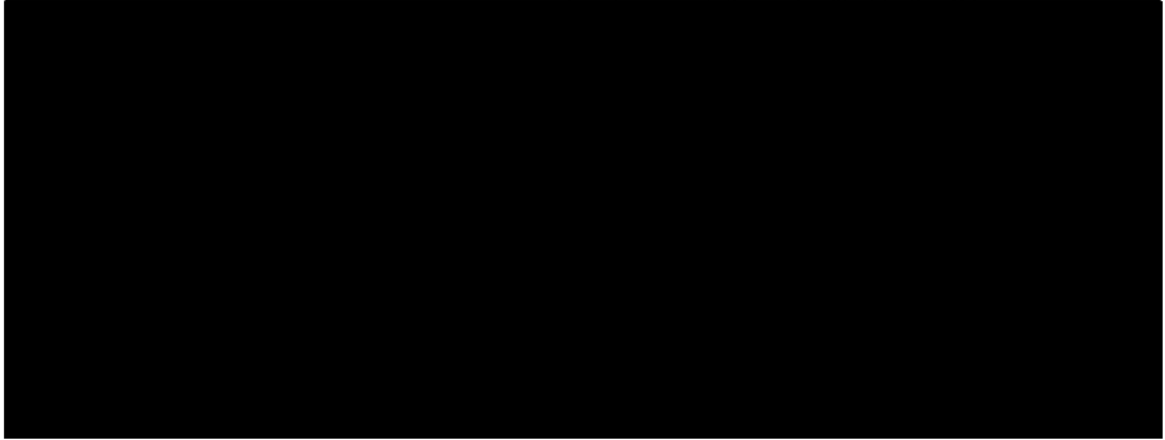


## 16 CONSENT OF THE OWNER

Complete the consent of the owner concerning personal information set out below.

### Consent of Owner to the Disclosure of Application Information and Supporting Documentation

Application information is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13. In accordance with that Act, it is the policy of the City of Hamilton to provide public



## 17 COLLECTION OF INFORMATION

The personal information contained on this form is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13, and will be used for the purpose of processing the application. This information will become part of the public record and will be made available to the general public. Questions about the collection of this information should be directed to the Coordinator of Business Facilitation, Planning and Economic Development Department, City of Hamilton, 1<sup>st</sup> floor, 71 Main Street West, City Hall, Hamilton, Ontario, Telephone, 905-546-2424, ext.1284.

A File Number will be issued for complete applications and should be used in all communications with the City.

### APPLICANT'S CHECKLIST

Please attach all items listed below:

- ☐ Two (2) copies of the completed application form (Ensure you have a copy for yourself);
- ☐ Three (3) copies of the prescribed sketch or survey (one (1) full scale size and two (2) no larger than ledger size paper 11" x 17"); and
- ☐ The required fee. ( A cheque or money order payable to the City of Hamilton)

CITY OF HAMILTON  
COST ACKNOWLEDGEMENT AGREEMENT

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BETWEEN:

Ap

"Developer"

-and-

City of Hamilton

hereinafter referred to as the "City"

WHEREAS the Developer represents that he/she is the registered owner of the lands described in Schedule "A" attached hereto, and which lands are hereinafter referred to as the "lands";

AND WHEREAS the Developer has filed for an application for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval/minor variance.

AND WHEREAS it is a policy of the City that any City costs associated with an appeal to the Local Planning Appeal Tribunal, by a party other than the Developer, of an approval of a consent, rezoning, official plan amendment, plan of subdivision, and/or minor variance, such as, but not limited to, legal counsel costs, professional consultant costs and City staff costs, shall be paid by the Developer.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of two dollars (\$2.00) now paid by the City to the Developer, the receipt of which is hereby acknowledged, the parties hereto agree as follows:


1. In this Agreement:
  - (a) "application" means the application(s) for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval or minor variance dated \_\_\_\_\_ with respect to the lands described in Schedule "A" hereto.
  - (b) "Expenses" means all expenses incurred by the City if the application is: (a) approved by the City; (b) appealed to the Local Planning Appeal Tribunal by a party other than the developer; and (c) the City appears before the Local Planning Appeal Tribunal or any other tribunal or Court in support of the application, including but not limited to: City staff time, City staff travel expenses and meals, City disbursements, legal counsel fees and disbursements and all consultant fees and disbursements including, without limiting the generality of the foregoing planning, engineering or other professional expenses
2. The City agrees to process the application and, where the application is approved by the City but appealed to the Local Planning Appeal Tribunal by a party other than the Developer, the Developer shall file an initial deposit, in the form of certified cheque or cash with the General Manager, Finance & Corporate Services within fifteen days of the date of the appeal of the application by a third party in the amount of 50% of the estimated expenses associated with the appeal as estimated by the City Solicitor in his sole discretion which shall be credited against the Expenses.
3. It is hereby acknowledged that if the deposit required pursuant to section 2 of this Agreement is not paid by the Developer the City shall have the option, at its sole discretion, of taking no further steps in supporting the Developer's application before the Local Planning Appeal Tribunal.
4. It is hereby acknowledged that all expenses shall be paid for by the Developer. The Developer shall reimburse the City for all expenses the City may be put to in respect of the application upon demand.

5. It is hereby acknowledged and agreed that all expenses shall be payable by the Developer whether or not the Developer is successful before the Local Planning Appeal Tribunal or any other tribunal or Court in obtaining approval for their application.
6. The City shall provide the Developer with copies of all invoices of external legal counsel or consultants included in the expenses claimed by the City.
7. The City shall provide the Developer with an accounting of all staff costs and City disbursements included in the expenses claimed by the City.
8. The City may, at any time, draw upon the funds deposited in accordance with sections 2 and 9 of this Agreement to satisfy expenses incurred pursuant to the appeal of the application.
9. In the event that the amount deposited pursuant to section 2 of this Agreement is reduced to less than 10% of the initial deposit, the City may halt all work in respect of the appeal of the application until the Developer deposits with the City a sum sufficient to increase the deposit to an amount which is equal to 100% of the expenses estimated pursuant to paragraph 2 of this Agreement and still to be incurred by the City.
10. Within 60 days of: (a) a decision being rendered in respect of the appeal or any legal proceedings resulting from the decision, whichever is later; or (b) the termination of all legal proceedings in respect of the application, the City shall prepare and submit a final account to the Developer. If there are any deposit funds remaining with the City they shall be applied against the account. Any amount owing in respect of the final account in excess of deposit funds shall be paid by the Developer within 30 days of the date of the final account. If any deposit funds are remaining after the final account has been paid they shall be returned to the developer within 30 days of the date of the final account.
11. This Agreement shall not be construed as acceptance of the application and nothing herein shall require or be deemed to require the City to approve the application.
12. This Agreement shall not stand in lieu of or prejudice the rights of the City to require such further and other agreements in respect of the application that the City may deem necessary.
13. Every term, covenant, obligation and condition in this Agreement ensures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors, trustees and assigns.
14. When the context so requires or permits, the singular number is to be read as if the plural were expressed, and the masculine gender as if the feminine, as the case may be, were expressed; and,
15. This Agreement and the schedules hereto constitute the entire agreement between the parties in respect of the subject matter contained herein and is not subject to, or in addition to, any other agreements, warranties or understandings, whether written, oral or implied. This Agreement may not be modified or amended except by instrument in writing signed by the Developer and the City, and,
16. The waiver or acquiescence by the City of any default by the Developer under any obligation to comply with this Agreement shall not be deemed to be a waiver of that obligation or any subsequent or other default under this Agreement.
17. The Developer covenants and agrees to be bound by the terms and conditions of this Agreement and not to seek a release from the provisions thereof until such time as the Developer's obligations hereunder have been assumed by its successor, assignee or transferee by way of written agreement in the form set out in Schedule "B" to this Agreement.

IN WITNESS WHEREOF the parties hereto have set their corporate seals under the hands of their duly authorized officers.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
WITNESS

  
I have authority to bind the corporation.

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Per:  
I have authority to bind the corporation

DATED at Hamilton, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

City of Hamilton

Per: \_\_\_\_\_  
Mayor

Per: \_\_\_\_\_  
Clerk

Schedule "A"  
Description of Lands

**SCHEDULE "B"**  
**FORM OF ASSUMPTION AGREEMENT**

THIS AGREEMENT dated the 10<sup>th</sup> day of March, 2020.

BETWEEN



OF THE FIRST PART

-and-

(hereinafter called the "Assignee")

-and-

OF THE SECOND PART

CITY OF HAMILTON  
(hereinafter called the "Municipality")

OF THE THIRD PART

**WHEREAS** the owner and the Municipality entered into and executed a Cost Acknowledgement Agreement dated March 10/2020.

**AND WHEREAS** Assignee has indicated that it will assume all of the Owner's duties, liabilities and responsibilities as set out in the Cost Acknowledgement Agreement.

**AND WHEREAS** Council for the Municipality has consented to releasing the Owner from its duties, liabilities and responsibilities under said Cost Acknowledgement Agreement subject to the Assignee accepting and assuming the Owner's duties, liabilities and responsibilities and subject to the Assignee the Owner and the Municipality entering into and executing an Assumption Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the parties hereto agree as follows.

1. The Assignee covenants and agrees to accept, assume and to carry out the Owner's duties, liabilities and responsibilities under the Cost Acknowledgement Agreement and in all respects to be bound under said Cost Acknowledgement Agreement as if the Assignee had been the original party to the agreement in place of the Owner.
2. The Municipality hereby releases the Owner from all claims and demands of any nature whatsoever against the Owner in respect of the Cost Acknowledgement Agreement. The Municipality hereby accepts the Assignee as a party to the Cost Acknowledge Agreement in substitution of the Owner, and agrees with the Assignee that the Assignee will be bound by all the terms and conditions of the Cost Acknowledgement Agreement as if the Assignee had been the original executing party in place of the Owner.
3. All of the terms, covenants, provisos and stipulations in the said Cost Acknowledgement Agreement are hereby confirmed in full force save and except for such modifications as are necessary to make said clauses applicable to the Assignee.

IN WITNESS WHEREOF the Parties have hereunto affixed their corporate seals  
duly attested to by their proper signing officers in that behalf.

SIGNED, SEALED AND DELIVERED



Title:

I have authority to bind the corporation

c/s

Assignee:

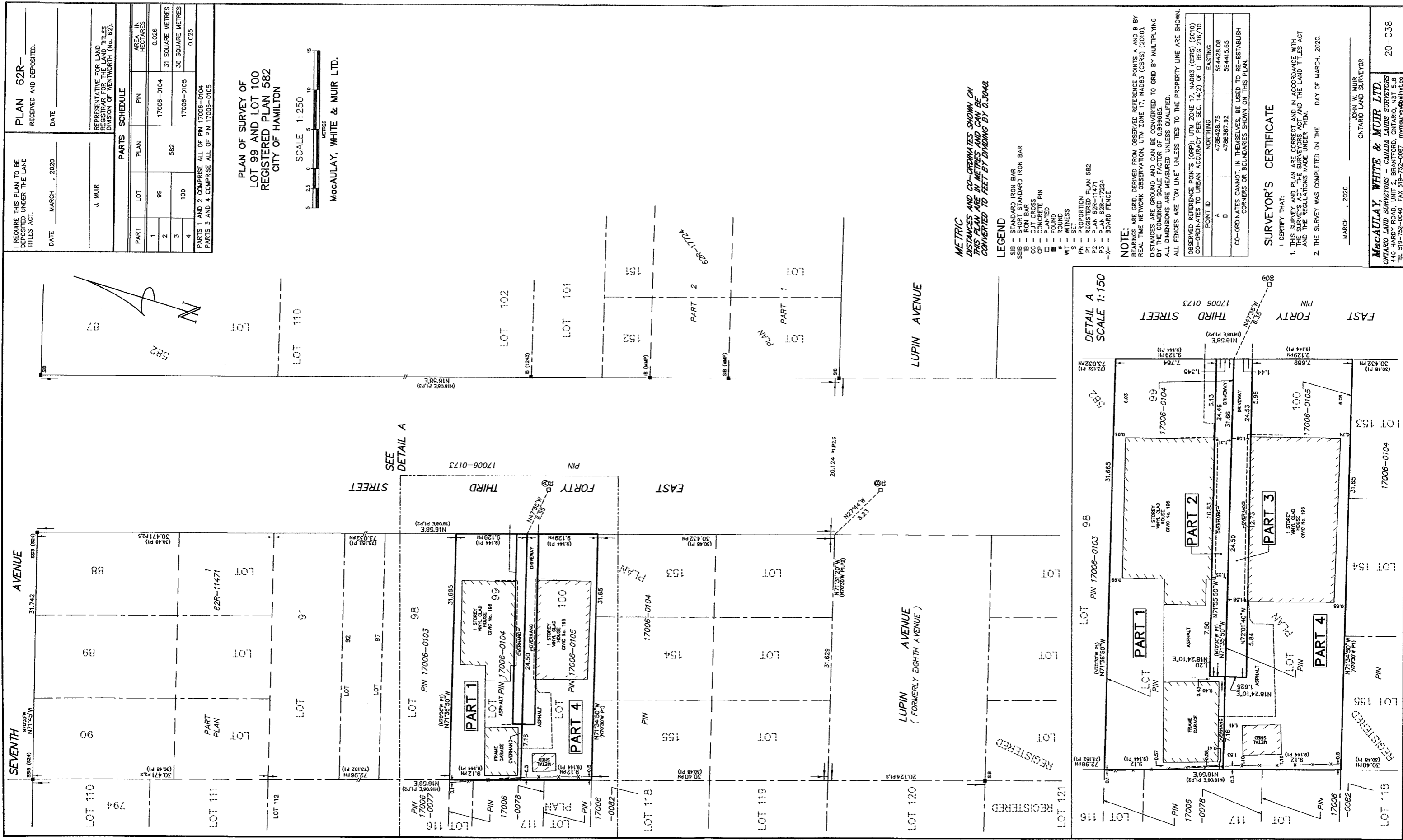
Title:

I have authority to bind the corporation

CITY OF HAMILTON

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk



PLAN 62R-  
RECEIVED AND DEPOSITED.

DATE MARCH 2020

DATE MARCH 2020

J. MUIR

REPRESENTATIVE FOR LAND  
REGISTRAR FOR THE LAND TITLES  
DIVISION OF WENTWORTH (No. 62).

REPRESENTATIVE FOR LAND  
REGISTRAR FOR THE LAND TITLES  
DIVISION OF WENTWORTH (No. 62).

PARTS SCHEDULE			
PART	LOT	PLAN	PIN
1	99	582	17006-0104
2	100	582	17006-0105
3	101	582	17006-0105
4	102	582	17006-0105

PARTS 1 AND 2 COMPRISE ALL OF PIN 17006-0104

PARTS 3 AND 4 COMPRISE ALL OF PIN 17006-0105

PLAN OF SURVEY OF  
LOT 99 AND LOT 100  
REGISTERED PLAN 582  
CITY OF HAMILTON

SCALE 1:250

MacAULAY, WHITE & MUIR LTD.

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

LEGEND

SIB - STANDARD IRON BAR  
SSIB - SHORT STANDARD IRON BAR  
IB - IRON BAR  
CC - CUT CROSS  
CP - CONCRETE PIN  
P - PLANT  
R - ROUND  
W - WITNESS  
S - SURVEYOR'S SIGN  
PN - PROPORTION  
P1 - REGISTERED PLAN 582  
P2 - PLAN 62R-11471  
P3 - PLAN 62R-17224  
-X- - BOARD FENCE

NOTE:  
BEARINGS ARE 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 0.999665.  
ALL DIMENSIONS ARE MEASURED UNLESS QUALIFIED.  
ALL FENCES ARE "ON LINE" UNLESS TIES TO THE PROPERTY LINE ARE SHOWN.

OBSERVED REFERENCE POINTS (GRP): 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	4786428.75	594428.08
B	4786387.92	594415.65

CO-ORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH  
CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:  
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH  
THE SURVEY ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT  
AND THE REGULATIONS MADE UNDER THEM.  
2. THE SURVEY WAS COMPLETED ON THE DAY OF MARCH, 2020.

MARCH 2020 JOHN W. MUIR  
ONTARIO LAND SURVEYOR

MacAULAY, WHITE & MUIR LTD.  
ONTARIO LAND SURVEYORS - CANADA LAND SURVEYORS  
440 HARDY ROAD, UNIT 2, BRANTFORD, ONTARIO N3T 5L8  
TEL 519-752-0040 FAX 519-752-0087 muirow@bellnet.ca

20-038

