

## **NOTICE OF PUBLIC HEARING**

### **Minor Variance**

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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
- 

<b>APPLICATION NO.:</b>	<b>HM/A-20:240</b>
<b>APPLICANTS:</b>	Michael Barton on behalf of the owner 2739534 Ontario Inc.
<b>SUBJECT PROPERTY:</b>	Municipal address <b>111-115 Whitney Ave., City of Hamilton</b>
<b>ZONING BY-LAW:</b>	Zoning By-law 6593, as Amended by by-laws 80-274, 95-02, 95-033 and 19-307
<b>ZONING:</b>	"C/S-729, C/S-1335, C/S-1335a and C/S-1788" (Urban Protected Residential and etc.) district
<b>PROPOSAL:</b>	To permit construction of a single family dwelling on a lot to be conveyed (111 Whitney Avenue) and to permit construct of a single family dwelling on a lot to be retained (115 Whitney Avenue) pursuant to Consent Application File No. HM/B-19:75 notwithstanding that:

Required Variances for the lot to be known as 111 Whitney Avenue:

1. A minimum lot area of 253m<sup>2</sup> shall be provided instead of the minimum required lot area of 275m<sup>2</sup> as approved by Variance No. 2 of Minor Variance File No. HM/A-19:279 for the lands to be conveyed.
2. A maximum floor area ratio of 1.12 shall be provided for the proposed single family dwelling instead of the maximum floor area ratio of 0.82 as approved by Variance No. 3 of Minor Variance File No. HM/A-19:279 for the lands to be conveyed.
3. A minimum front yard depth of 5.4m shall be permitted instead of the minimum required front yard depth of 6.0m.
4. A minimum of 28% of the front yard shall be used for a landscaped area instead of the requirement that not less than 50% of the gross area of the front yard shall be used for a landscaped area excluding concrete, asphalt, gravel, pavers, or other similar materials.
5. One (1) parking space shall be provided instead of the minimum required 3 parking spaces for the proposed 10 habitable rooms.
6. A minimum parking space length of 5.4m shall be provided instead of the minimum required parking space length of 6.0m.

Required Variances for the lot to be known as 115 Whitney Avenue:

1. A minimum lot width of 8.0m shall be provided instead of the minimum required lot width of 8.9m as approved by Variance No. 1 of Minor Variance File No. HM/A-19:279 for the lands to be retained.

- 2. A minimum lot area of 217m2 shall be provided instead of the minimum required lot area of 275m2 as approved by Variance No. 2 of Minor Variance File No. HM/A-19:279 for the lands to be retained.
- 3. A maximum floor area ratio of 1.3 shall be provided for the proposed single family dwelling instead of the maximum floor area ratio of 0.82 as approved by Variance No. 3 of Minor Variance File No. HM/A-19:279 for the lands to be retained.
- 4. A minimum front yard depth of 5.5m shall be permitted instead of the minimum required front yard depth of 6.0m.
- 5. A minimum side yard width of 0.9m shall be permitted to the easterly 28.24m side lot line instead of the minimum required side yard width of 1.2m.
- 6. A minimum side yard width of 0.6m shall be permitted to the westerly 23.67m side lot line and to the 6.55m side lot line at the hypotenuse of the daylight triangle at the corner of Whitney Avenue and Leland Street instead of the minimum required side yard width of 1.2m.
- 7. Eaves and gutters shall be permitted to project 0.6m into the side yards abutting the westerly 23.67m side lot line and the 6.55m side lot line at the hypotenuse of the daylight triangle at the corner of Whitney Avenue and Leland Street so that the eaves and gutters are 0.0m from the westerly 23.67m side lot line and the 6.55m side lot line at the hypotenuse of the daylight triangle instead of the requirement that eave or gutters may project into the required side yard (being 0.6m pursuant to Variance No. 6) not more than ½ of its required width (being 0.3m).
- 8. Two (2) parking spaces shall be provided instead of the minimum required 3 parking spaces for the proposed 10 habitable rooms.

NOTE:

- i) The Floor Plans submitted show a total of ten (10) habitable rooms. If greater than 10 habitable rooms are intended, additional variances for the lot to be retained and the lot to be conveyed shall be required as the number of required parking spaces will increase.

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

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<b>DATE:</b>	<b>Thursday, March 4th, 2021</b>
<b>TIME:</b>	<b>1:40 p.m.</b>
<b>PLACE:</b>	<b>Via video link or call in (see attached sheet for details)</b>
	<b>To be streamed at</b>
	<b><a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a></b>
	<b>for viewing purposes only</b>

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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:

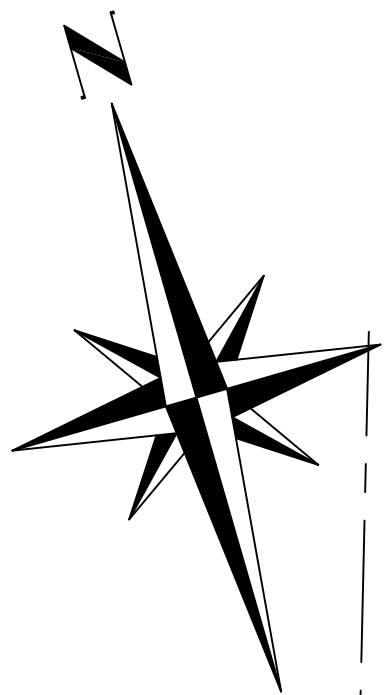
- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

DATED: February 16th, 2021.

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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.***



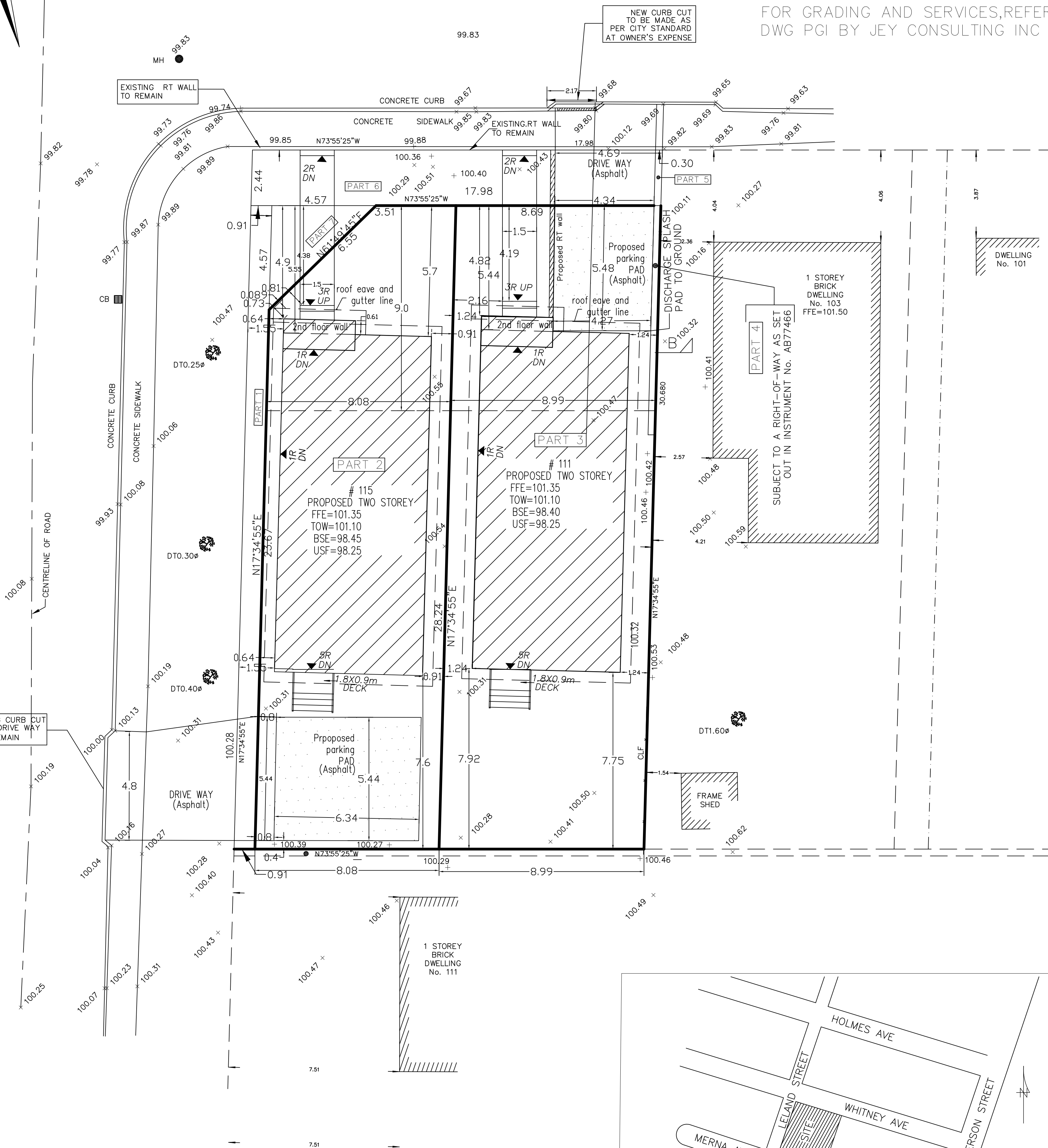
WHITNEY AVENUE

SURVEY INFORMATION TAKEN FROM  
THAM SURVEYING LIMITED

LEGAL DISCRIPTION  
LOTS 171 AND 172, AND  
PART OF LOT 173  
REGISTERED PLAN 426  
CITY OF HAMILTON  
(REGIONAL MUNICIPALITY OF WENTWORTH)

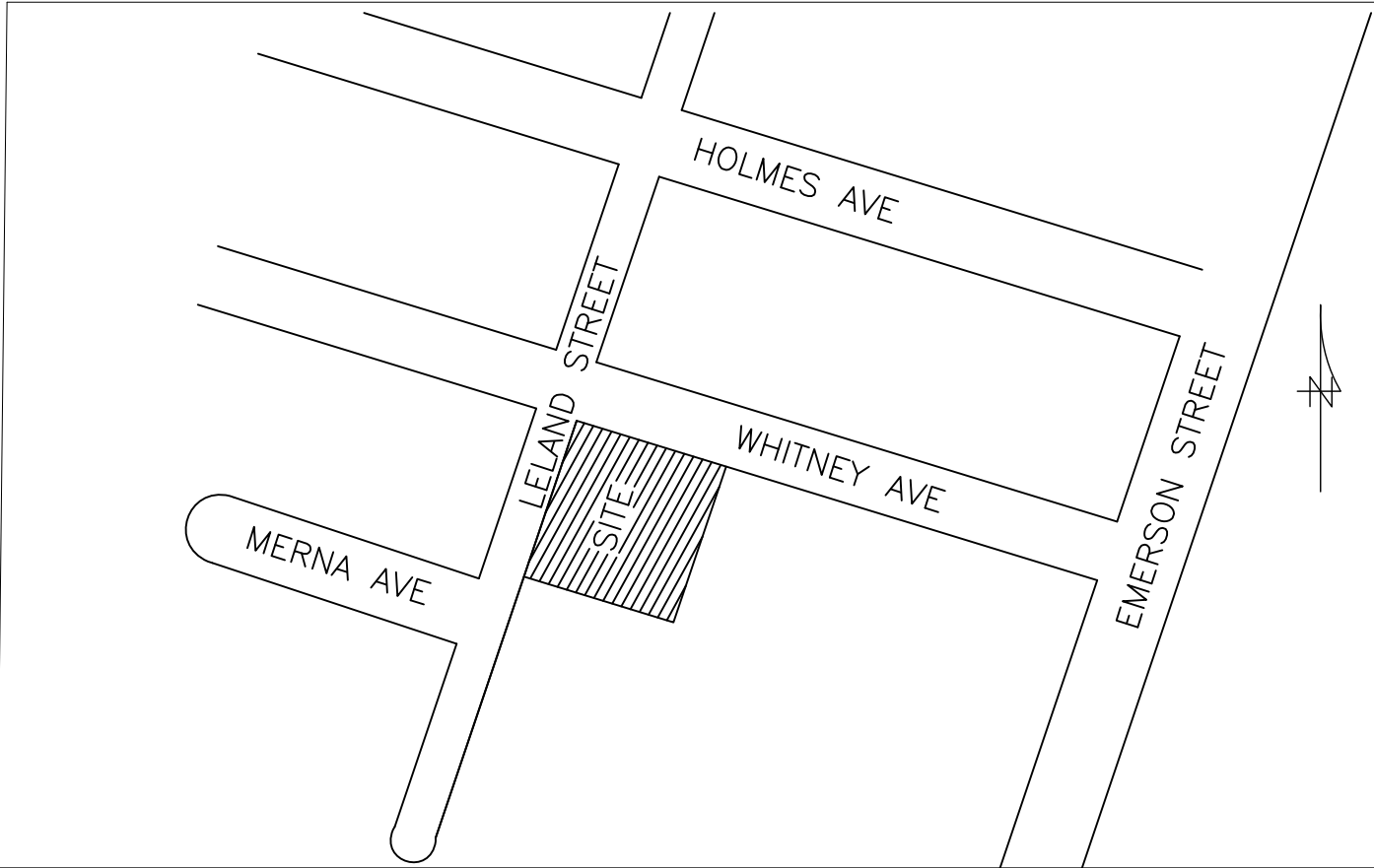
FOR GRADING AND SERVICES,REFER  
DWG PGI BY JEY CONSULTING INC

LELAND STREET



4		
3		
2		
1	Dec. 09,2020	COFA SUBMISSION TO THE CITY
No:	DATE: -	REVISION
DRAWN BY: RK	CHECKED BY: KE	DRAWING No: - A.0
SCALE 1:100		

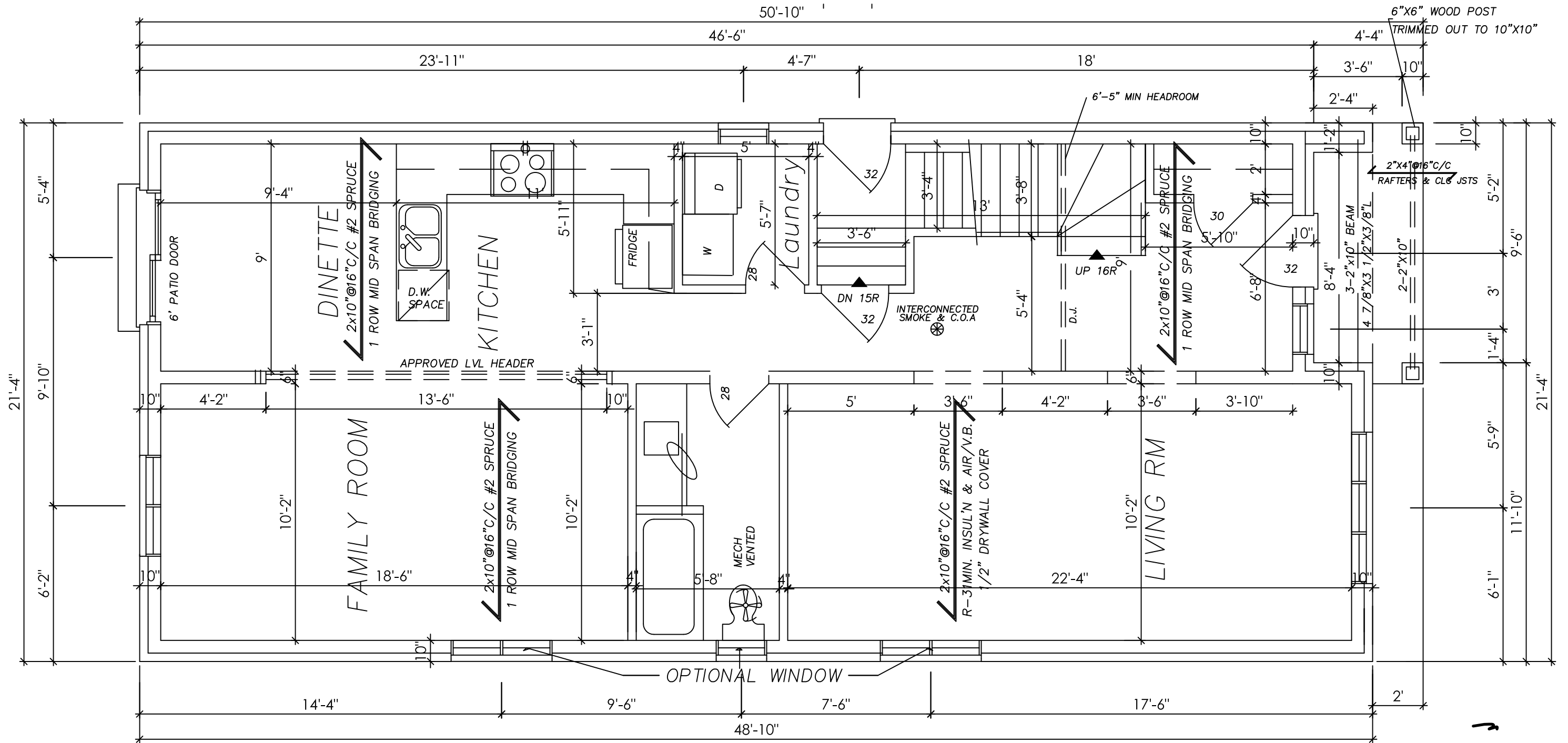
DRAWING TITLE:  
PROPOSE SITE PLAN  
PROJECT NAME: 111/115 WHITNEY AVENUE  
CITY OF HAMILTON



KEY PLAN  
(N.T.S)





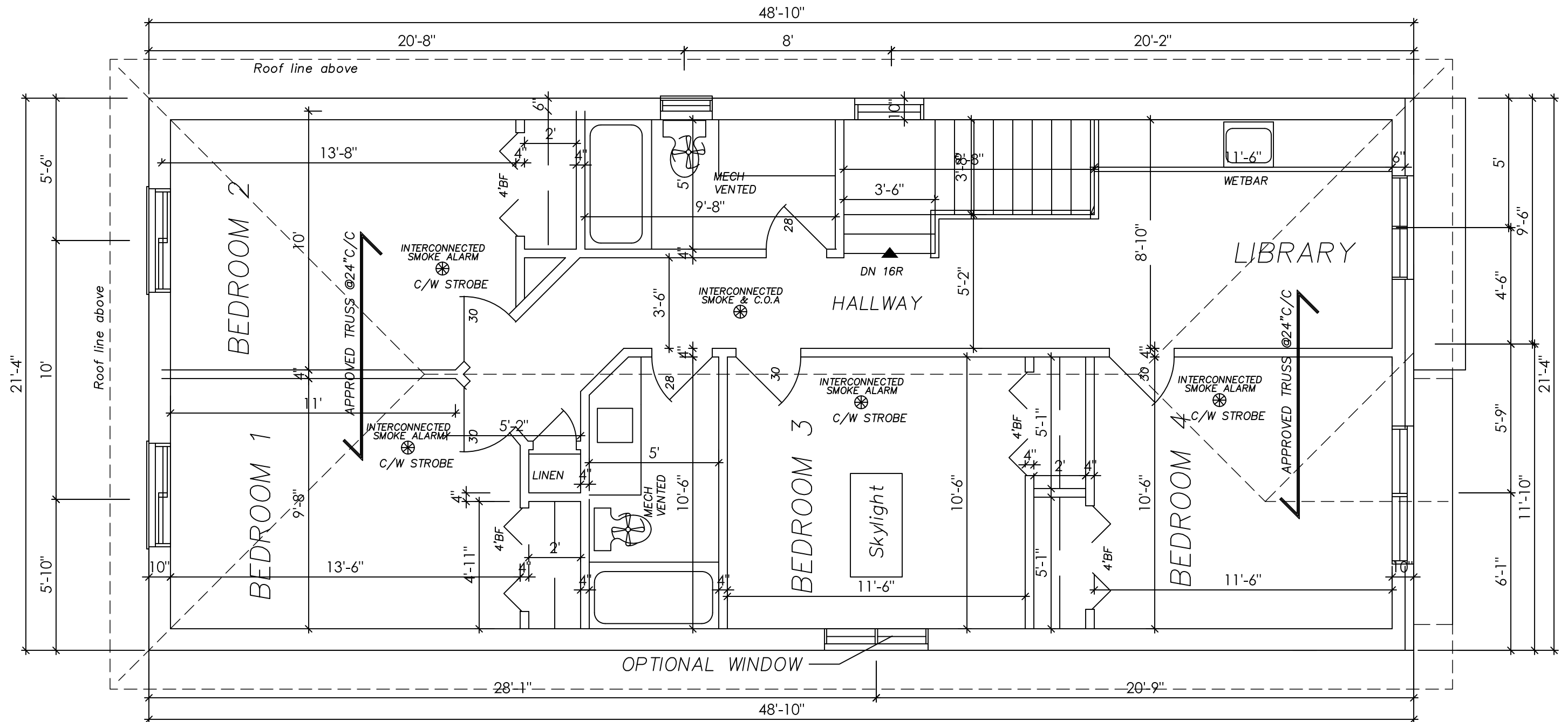


First Floor  
GFA=1020 SQ.FT.(94.76 S.M).

LAUNDRY AREA=31SQ.FT.(2.9S.M).  
POACH AREA=42.8SQ.FT.(3.98S.M).

C O F A

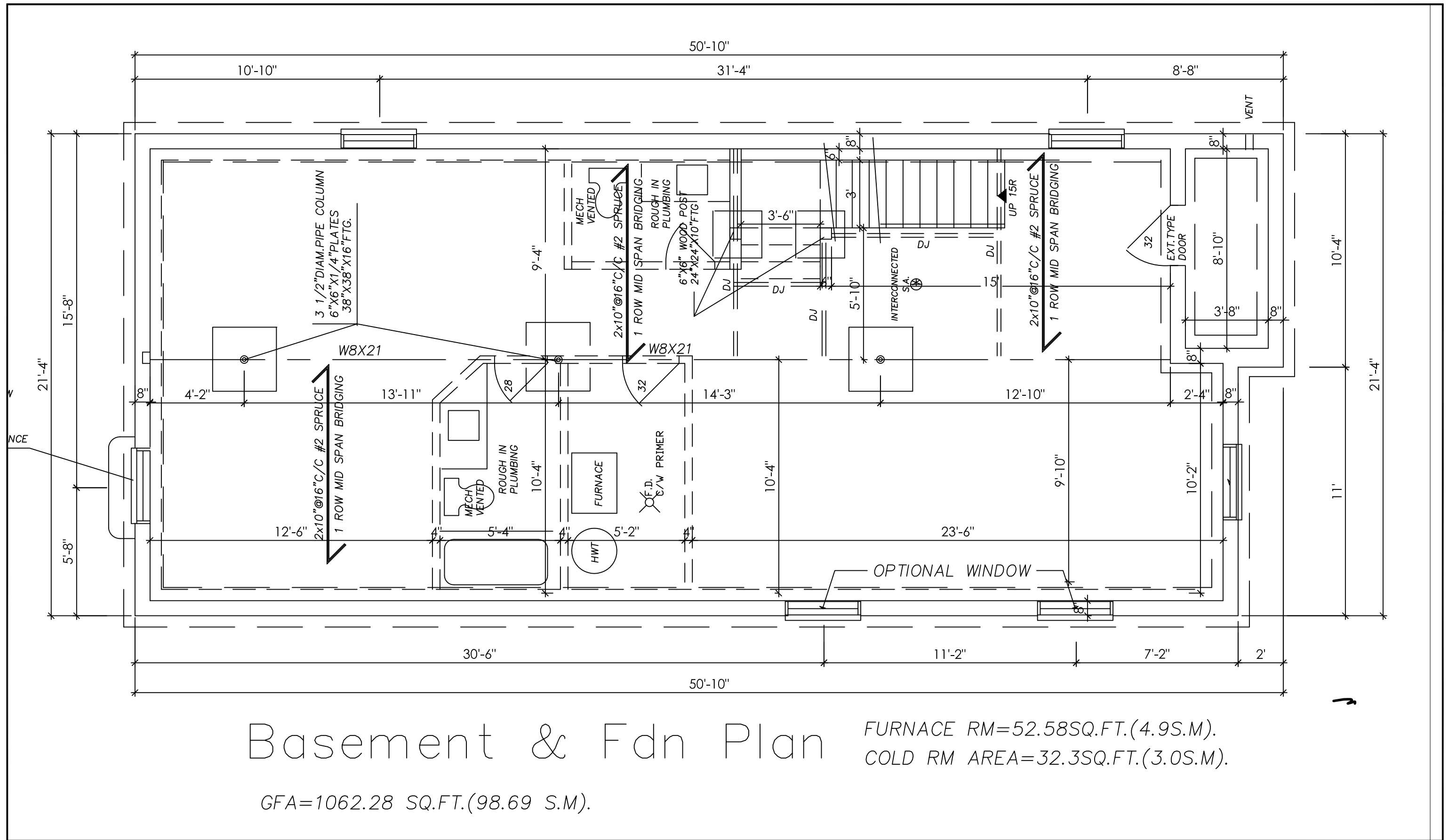
Title	Title 1 ST FLOOR PLAN			Tender Date DEC 2020	Sheet No. <div>A1.0</div>
NEW HOUSE AT 111/115 WHITNEY AVE HAMILTON	Project No. 110601	Scale 1/4" = 1'	Drawn By RK	Revision Date	Revision No.



Second Floor  
GFA = 1042 SQ.FT. (96.8 S.M)

COFA

Title		Title		Tender Date	Sheet No.
NEW HOUSE AT 111/115 WHITNEY AVE. HAMILTON		2ND FLOOR		DEC. 2020	A2.0
Project No.	Scale	Drawn By	Revision Date	Revision No.	
110601	1/4" = 1'	RK			



# Basement & Fdn Plan

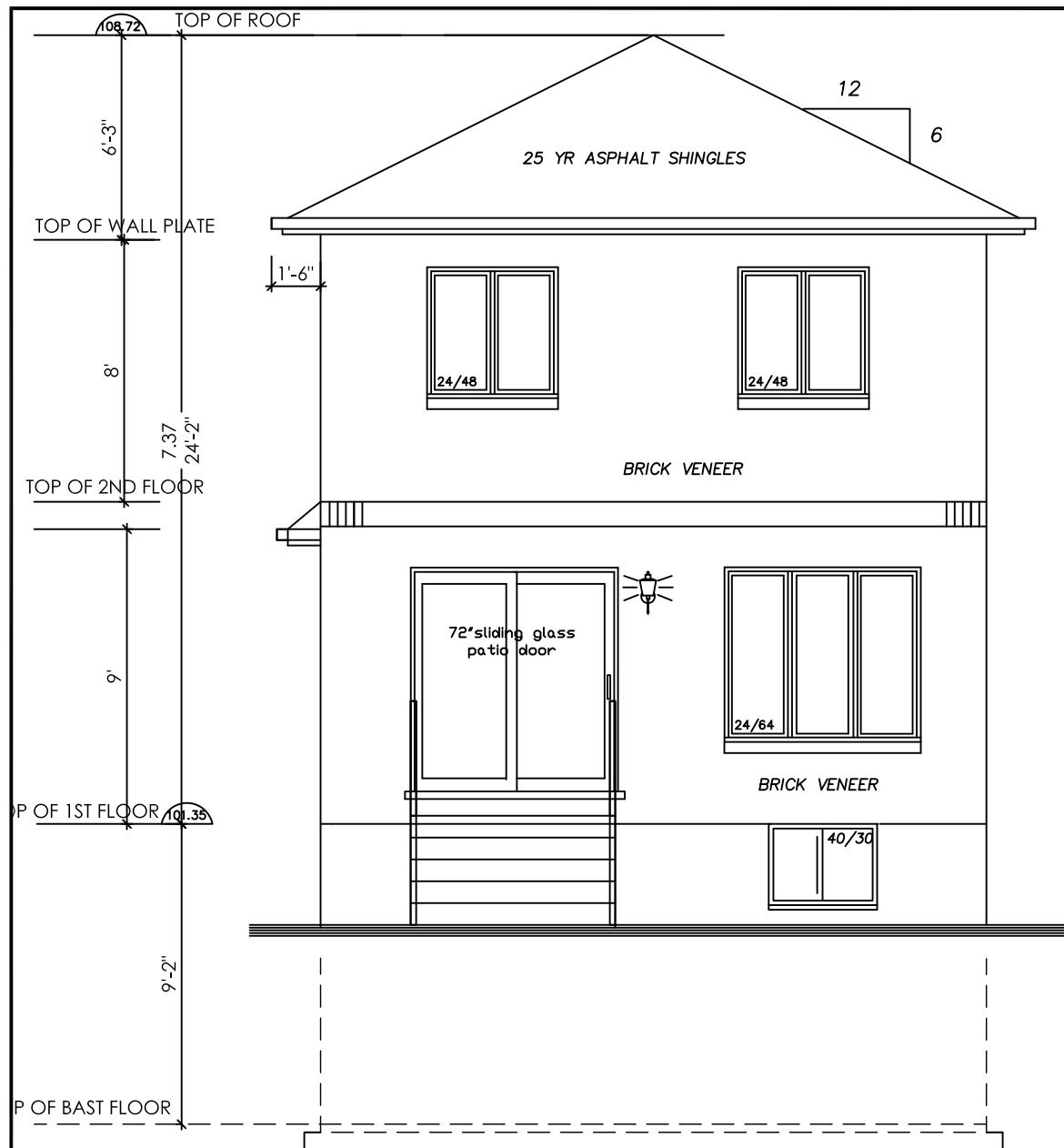
FURNACE RM=52.58SQ.FT.(4.9S.M).  
COLD RM AREA=32.3SQ.FT.(3.0S.M).

GFA=1062.28 SQ.FT.(98.69 S.M).

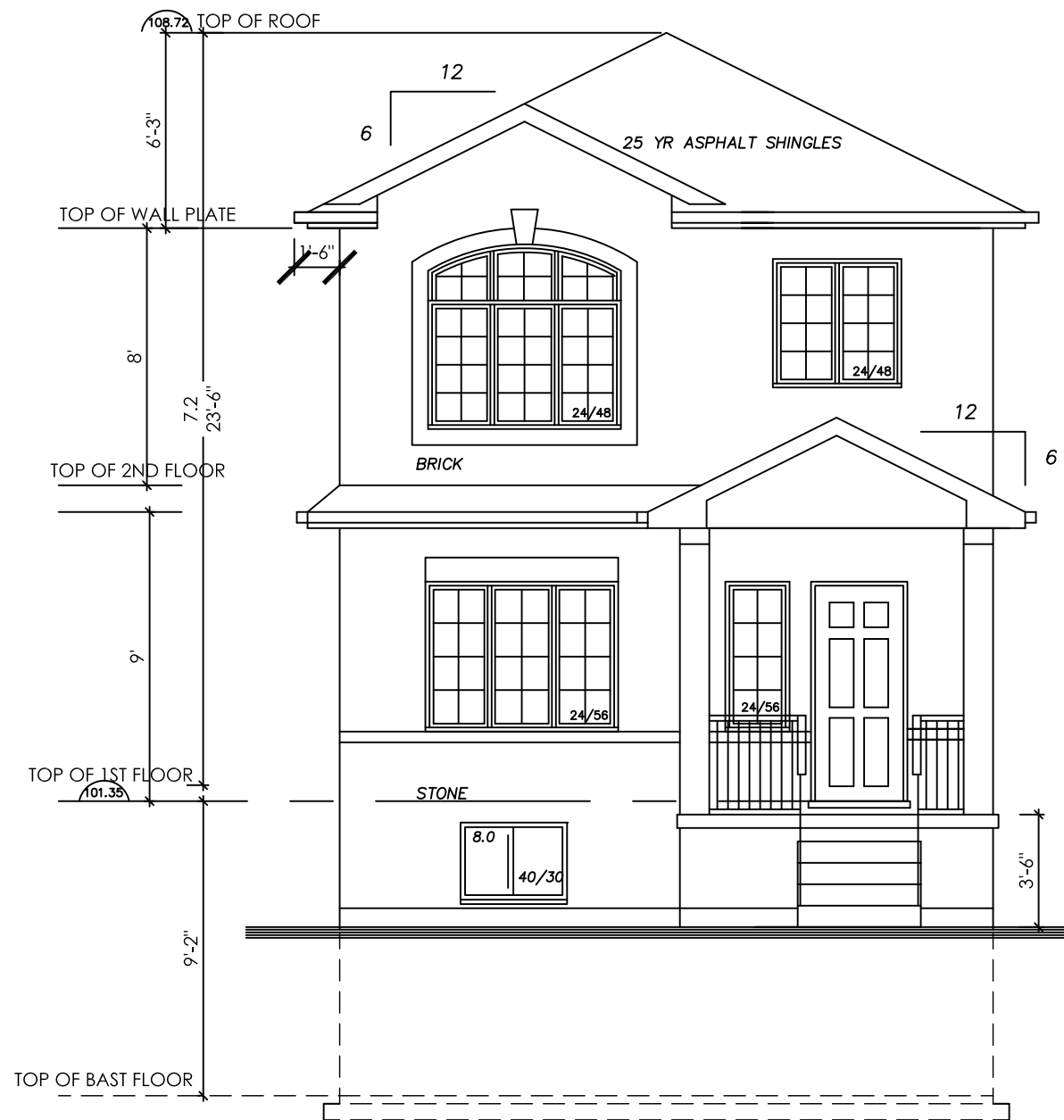
C O F A

Title	Title BASEMENT FLOOR PLAN			Tender Date DEC 2020	Sheet No. <div>A 3.0</div>
NEW HOUSE AT 111/115 WHITNEY AVE HAMILTON	Project No. 110601	Scale 1/4" = 1'	Drawn By RK	Revision Date	Revision No.





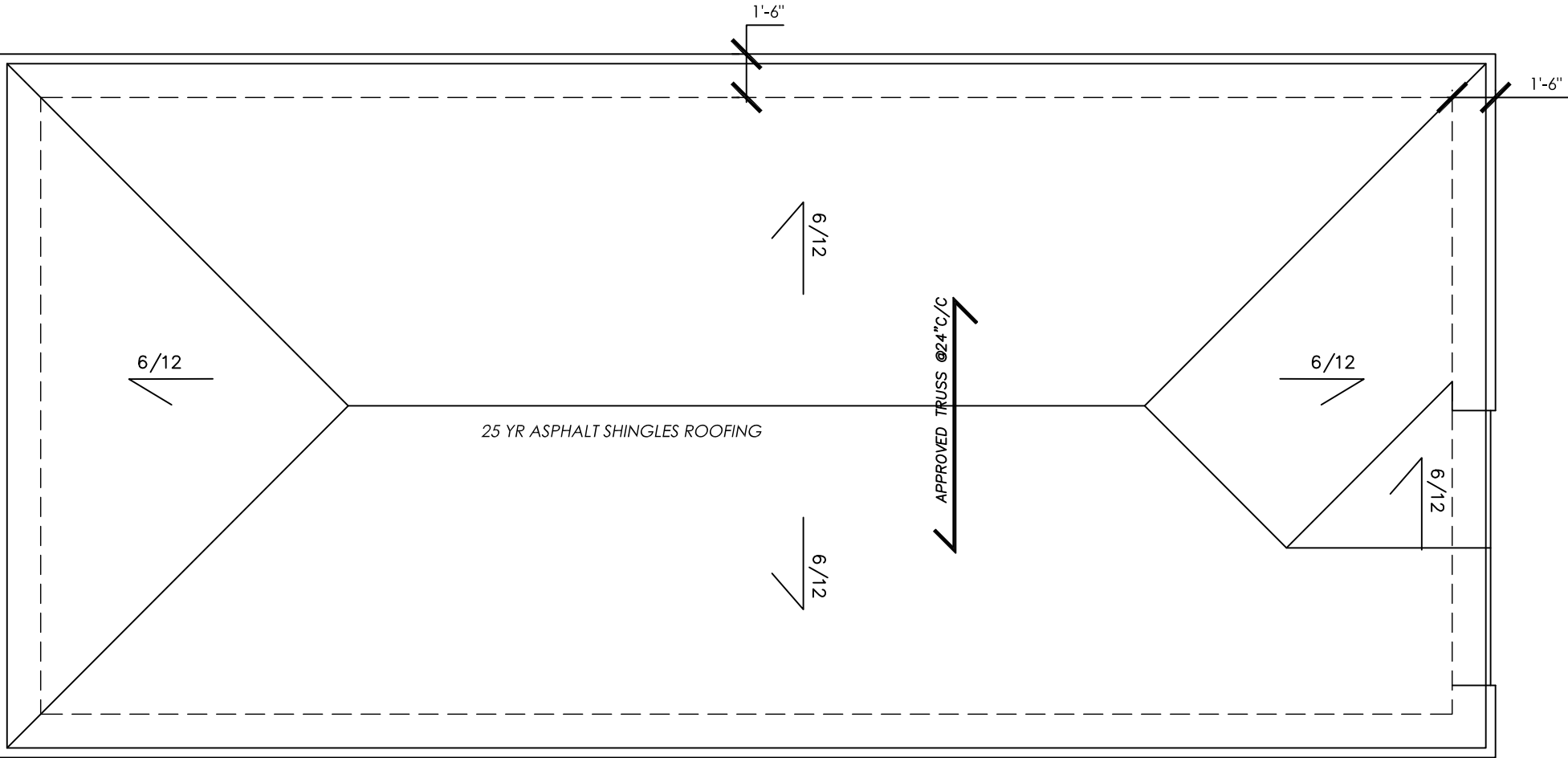
Rear Elevation



Front Elevation

C OF A

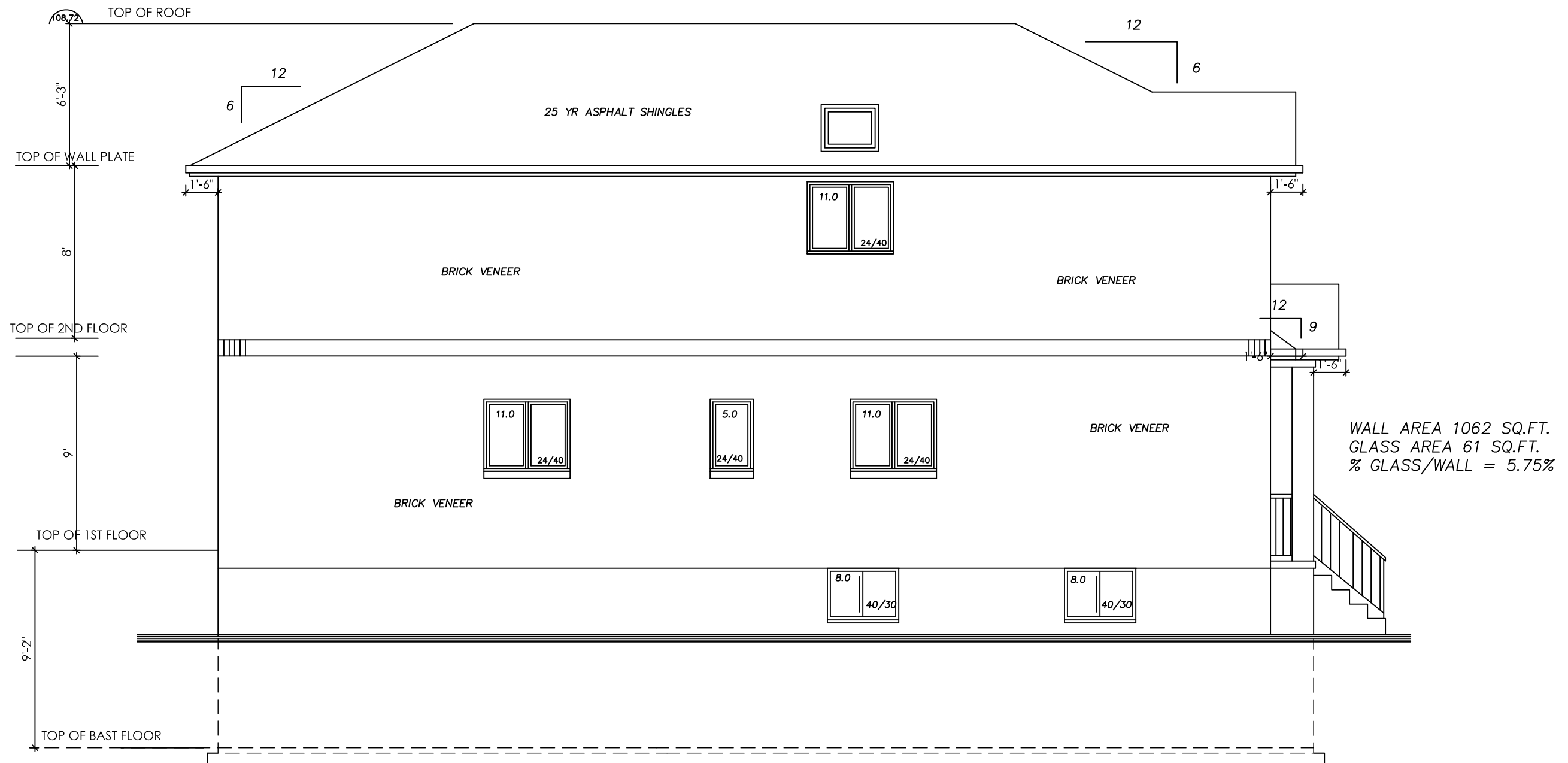
Title		Title		Tender Date	Sheet No.
NEW HOUSE AT 111/115 WHITNEY AVE HAMILTON		FRONT AND REAR ELEVATION		DEC 2020	A5.0
Project No.	Scale	Drawn By	Revision Date	Revision No.	
110601	3/16" = 1'	RK			



Roof PLAN

C OF A

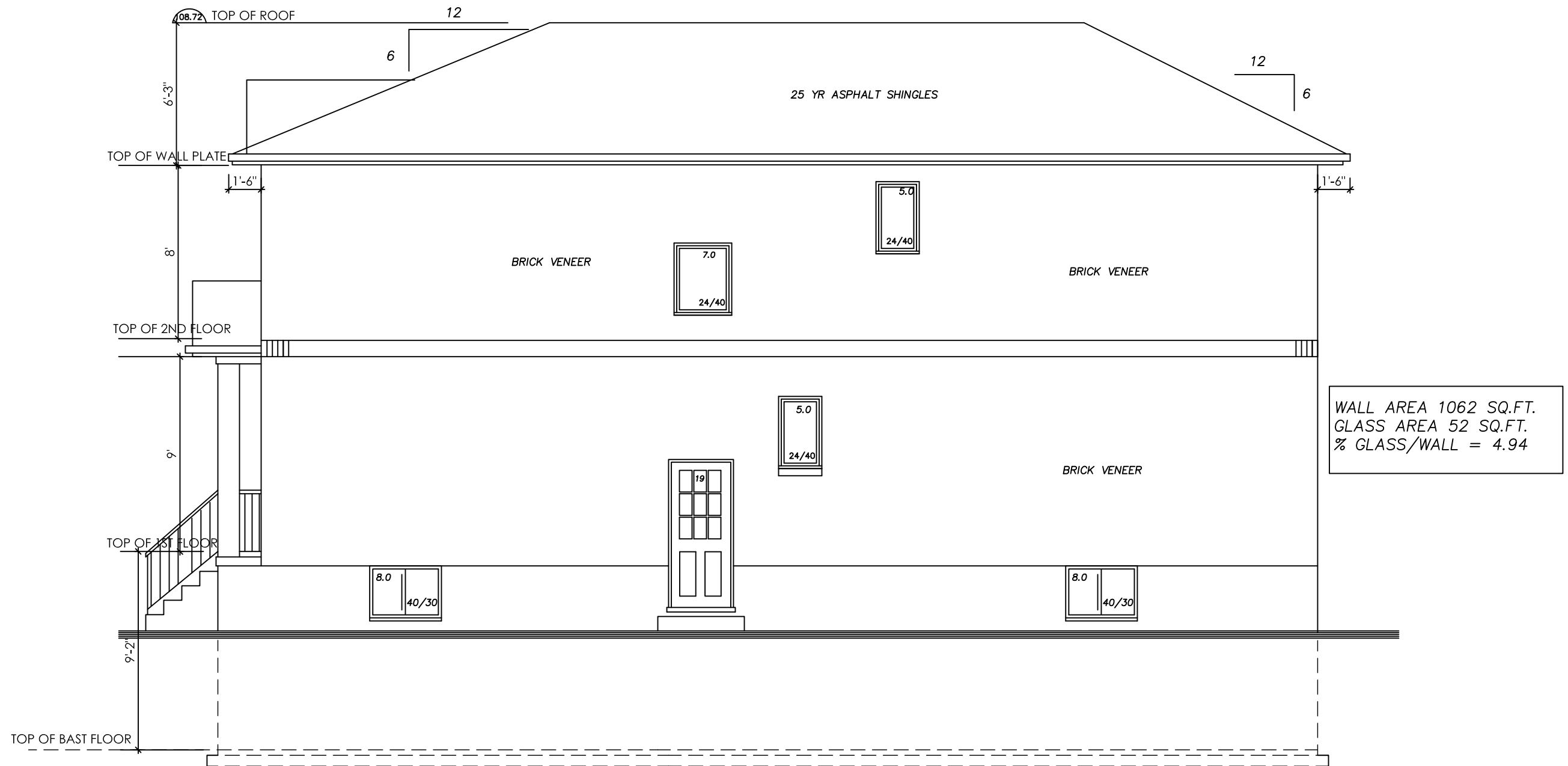
Title		Title		Tender Date	Sheet No.
		ROOF PLAN		DEC 2020	A4.0
NEW HOUSE AT 111/115 WHITNEY AVE HAMILTON		Project No.	Scale	Drawn By	Revision Date
		110601	3/16" = 1'	RK	
					Revision No.



East Side Elevation

C OF A

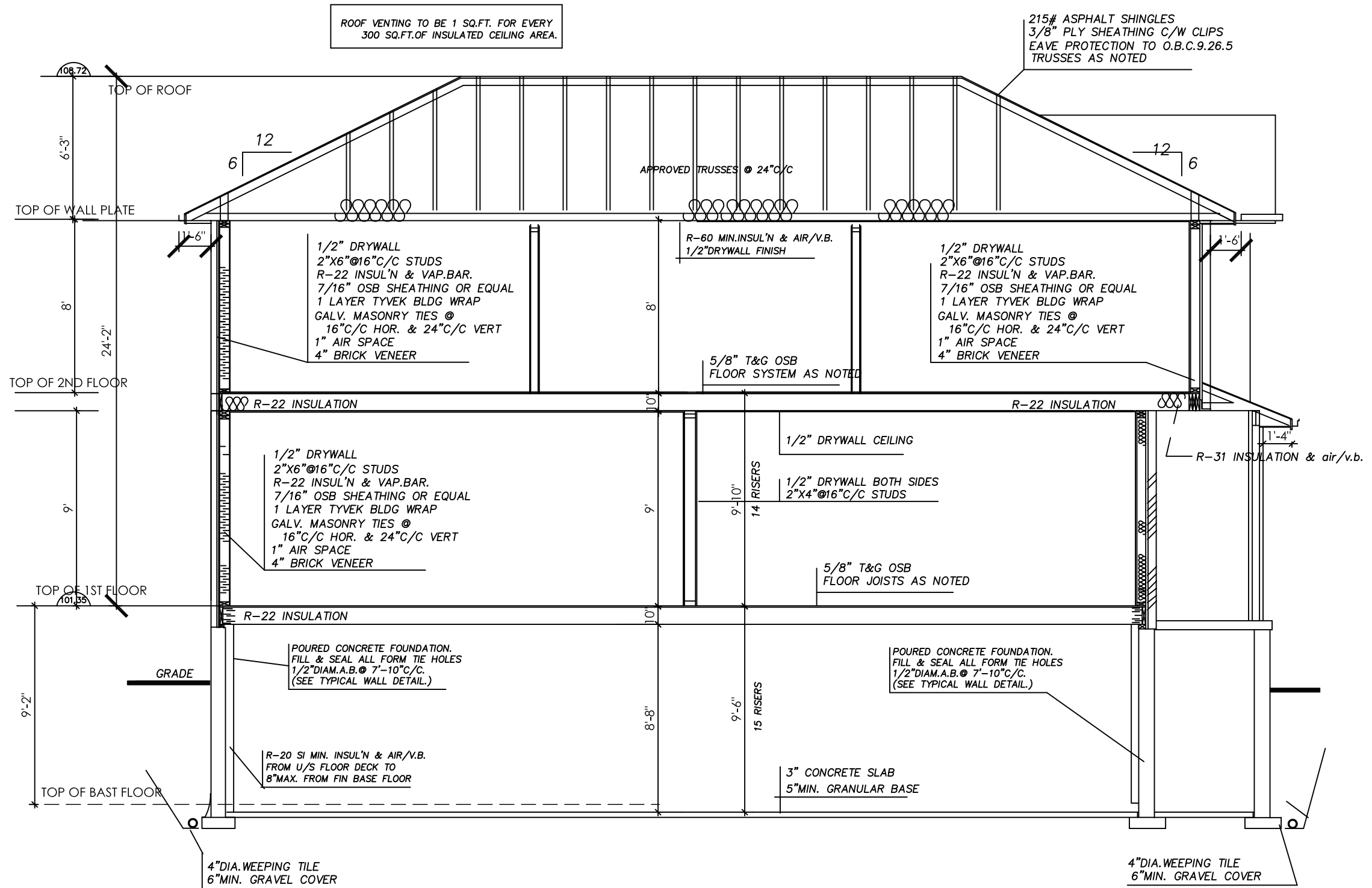
Title		Title		Tender Date	Sheet No.
NEW HOUSE AT 111/115 WHITNEY AVE HAMILTON		EAST SIDE ELEVATION		DEC 2020	A7.0
Project No.	Scale	Drawn By	Revision Date	Revision No.	
110601	3/16" = 1'	RK			



West Side Elevation

C OF A

Title		Title		Tender Date	Sheet No.
NEW HOUSE AT 111/115 WHITNEY AVE HAMILTON		WEST SIDE ELEVATION		DEC 2020	A6.0
Project No.	Scale	Drawn By	Revision Date	Revision No.	
110601	3/16" = 1'	RK			



## Section

C OF A

Title		Title		Tender Date	Sheet No.
NEW HOUSE AT		SECTION		DEC 2020	A8.0
111/115 WHITNEY AVE HAMILTON		Project No.	Scale	Drawn By	Revision No.
		110601	3/16" = 1'	RK	

ZONING INFORMATION 111–115 WHITNEY AVE HAMILTON		
DISCRIPTION	111 WHITNEY AVE	115 WHITNEY AVE
LOT WIDTH	8.99 M	8.08
LOT AREA	253.8 S.M	217.7 S.M
FRONT SETBACK	5.4M	5.5M
WEST SIDE SETBACK	1.24M	0.73M
EAST SIDE SETBACK	1.24M	0.91M
REAR SETBACK	7.75M	7.6M
EAVE& GUTTER SET– BACK TO SIDE LOTLINE	0.79M	0.089M
FLOOR AREA		
1ST FLOOR	91.86 S.M	91.86 S.M
2ND FLOOR	96.8 S.M	96.8 S.M
BASEMENT FLOOR	93.79 S.M	93.79 S.M
TOTAL FLOOR	282.45S.M	282.45S.M
FLOOR AREA RATIO	1.12	1.3
AVE.GRADE AT CURB	99.79	99.96
BUILDING HEIGHT	8.93M (108.72)	8.76M (108.72)
PARKING PAD	4.27M X 5.48M	6.34M X 5.44M
DRIVE WAY	4.69M	4.8M(Existing)
FRONT LANDSCAPE	13.7 S.M	29.63 S.M
FRONT YARD	47.6 S.M	29.63 S.M

4			DRAWING TITLE: ZONING ONFO	
3				
2				
1	Dec. 09,2020	COFA SUBMISSION TO THE CITY	PROJECT NAME: 111/115 WHITNEY AVENUE CITY OF HAMILTON	
No:	DATE: –	REVISION		
DRAWN BY: RK		CHECKED BY: KE		
		DRAWNG No: – A.01		



## ADDRESSING YOUR COMMENTS

### General:

Some of the lot line dimensions do not match those shown on the Draft "R" Plan dated July 21, 2020 prepared by Tham Surveying Ltd. Can you advise if there is a revised Draft R-Plan?. If so, this revised Draft Plan shall be submitted. If the "Draft "R" Plan has not been revised, then Site Plan shall be further revised to match the dimensions shown on the Draft "R" Plan dated July 21, 2020. Please advise.

**A COPY OF THE REGISTERED PLAN IS ATTACHED**

Additionally, the following clarification is required on a revised Site Plan:

1. Show the rear lot line dimensions for both lots.

**INDICATED ON THE SITE PLAN**

2. Confirm the total lot width for 111 Whitney Ave (it appears that it may be 8.69m + 0.3m for a total of 8.99m; however, this shall be confirmed.

**CONFIRMED AS 8.99M**

3. Confirm the lot area of both lots. The survey previously submitted shows a different lot area than the lot areas shown on the Zoning Information Sheet. The following lot area information is provided

**PREVIOUSLY SUBMITTED SITE PLAN MATCHES WITH REGISTERED PLAN**

111 Whitney Ave	253.8m <sup>2</sup> (Shown on the Zoning Information Sheet dated December 9, 2020)
	248.7m <sup>2</sup>  (Shown as Parts 3 and 4 on the Draft Reference Plan dated July 21, 2020)  <u>Determined by:</u>  245.9m <sup>2</sup> (Part 3) + 2.8m <sup>2</sup> (Part 4) = 248.7m <sup>2</sup> as shown on the Draft Reference Plan dated July 21/20

115 Whitney Ave	217.7m <sup>2</sup> (Shown on the Zoning Information Sheet dated December 9, 2020)
	210.7m <sup>2</sup>  (Shown as Part 2 on the Draft Reference Plan dated July 21, 2020)

4. The Floor Area Ratio shown on the Zoning Information Sheet should be revised if the lot area of both lots is as shown on the Draft "R" Plan dated July 21, 2020 rather than the lot area shown on the Zoning Information Sheet

REMAINS THE SAME

5. Correct the Front Yard setback for both 111 and 115 Whitney Avenue on the Zoning Information Chart as 4.82m is shown; however, the Site Plan shows 5.48m for 111 Whitney Avenue and 5.6m for 115 Whitney Avenue. The front porch is considered a yard encroachment into the front yard.

MAIN WALL IN 2<sup>ND</sup> FLOOR IS SHOWN AND THE NEW DATA IS IN ZONING LEGEND

6. Show the setback of the front steps on the front porch from the front lot line of 111 Whitney Avenue.

SHOWN IN SITE PLAN

7. Show the setback of the front steps on the front porch from the 3.51m front lot line and from the 6.55m angled side lot of 115 Whitney Ave.

SHOWN IN SITE PLAN

8. Show the setback of the eave and gutter projection on the front porch and the eave and gutter on the dwelling from the 6.55m angled side lot of 115 Whitney Ave.

EAVE LINE IS SHOWN IN DOT-LINE AND THE SET BACK OF 0.089M IS INDICATED ON SITE PLAN

9. Show the step(s) at the west side each dwelling and the show the setback of the step(s) from each westerly side lot line for both 111 and 115 Whitney Avenue.

No need for steps at the side door as the grade level difference is only = 7.5" (1R)

10. Show the parking spaces including each of their widths and length in the parking areas for both 111 and 115 Whitney Avenue. A minimum parking space size of 2.7m wide x 6.0m long is required.

No changes are made and size and location are intended

- It appears that one (1) space can be provided for 111 Whitney Avenue being 4.27m wide x 5.48m long and manoeuvring is intended entirely on the Whitney Avenue road allowance. Please confirm if this is intended.
  - It appears that two (2) spaces can be provided for 115 Whitney Avenue with each being 2.72m wide ( $5.44\text{m} \div 2 = 2.72\text{m}$ ) x 6.34m long and manoeuvring is intended entirely on the Leland Street road allowance. Please confirm if this is intended/correct.
11. Revise the Front Elevation on Elevation Plan A5.0 to show the total eave and gutter projection on the front porch.

Total eave and gutter projection from the main wall is 1'-6" throughout the building and are shown in drawings A5.0

**Kim Roberts, CPT**

Zoning Examiner Hamilton

(905) 546-2424 Ext.2581



Hamilton

Planning and Economic Development Department  
Planning Division

**Committee of Adjustment**  
City Hall  
5<sup>th</sup> floor 71 Main Street West  
Hamilton, Ontario L8P 4Y5

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

**PLEASE FILL OUT THE FOLLOWING PAGES AND  
RETURN TO THE CITY OF HAMILTON PLANNING  
DEPARTMENT.**

**FOR OFFICE USE ONLY.**

APPLICATION NO. \_\_\_\_\_ DATE APPLICATION RECEIVED \_\_\_\_\_

PAID \_\_\_\_\_ DATE APPLICATION DEEMED COMPLETE \_\_\_\_\_

SECRETARY'S  
SIGNATURE \_\_\_\_\_

**CITY OF HAMILTON  
COMMITTEE OF ADJUSTMENT  
HAMILTON, ONTARIO**

***The Planning Act***

**Application for Minor Variance or for Permission**

The undersigned hereby applies to the Committee of Adjustment for the City of Hamilton under Section 45 of the *Planning Act*, R.S.O. 1990, Chapter P.13 for relief, as described in this application, from the Zoning By-law.

1. Name of Owner 2739534 ONTARIO INC Telephone No. [REDACTED]  
FAX NO. \_\_\_\_\_ E-mail address. [REDACTED]
2. Address [REDACTED]  
[REDACTED] Postal Code [REDACTED]
3. Name of Agent Michael Barton Telephone No. [REDACTED]  
FAX NO. \_\_\_\_\_ E-mail address. [REDACTED]
4. Address [REDACTED]  
[REDACTED] Postal Code [REDACTED]

**Note:** Unless otherwise requested all communications will be sent to the agent, if any.

5. Names and addresses of any mortgagees, holders of charges or other encumbrances:  
NO MORTGAGE ON THE PROPERTY  
\_\_\_\_\_  
Postal Code \_\_\_\_\_  
\_\_\_\_\_  
Postal Code \_\_\_\_\_

6. To permit minimum parking space dimensions less than 2.7 m wide by 6.0 m long
6. Nature and extent of relief applied for:
1. To permit minimum lot width less than 8.99 m (3.42 m proposed)
  2. To permit minimum lot area less than 275 m<sup>2</sup> (245.9 m<sup>2</sup> and 210.7 m<sup>2</sup> proposed)
  3. To permit minimum front yard less than 6 m (4.34 m and 4.3 m proposed)
  4. To permit minimum interior side yard of 0.9 m and exterior side yard of 0.34 m
  5. To permit minimum front yard landscaping area of less than 50% for 111 Whitney
7. Why it is not possible to comply with the provisions of the By-law?  
Land dedication required for widening of Whitney Avenue and Leland Street reduces lot area, lot width and front yard setbacks. This also impacts lot coverage, floor area ratio and other regulations.
8. Legal description of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number):  
Lots 171 and 172 and Part of Lot 173, Registered Plan 426  
City of Hamilton
9. PREVIOUS USE OF PROPERTY
- Residential X Industrial \_\_\_\_\_ Commercial \_\_\_\_\_
- Agricultural \_\_\_\_\_ Vacant \_\_\_\_\_
- Other \_\_\_\_\_
- 9.1 If Industrial or Commercial, specify use  
N/A
- 9.2 Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?  
 Yes \_\_\_\_\_ No X Unknown \_\_\_\_\_
- 9.3 Has a gas station been located on the subject land or adjacent lands at any time?  
 Yes \_\_\_\_\_ No X Unknown \_\_\_\_\_
- 9.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?  
 Yes \_\_\_\_\_ No X Unknown \_\_\_\_\_
- 9.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?  
 Yes \_\_\_\_\_ No X Unknown \_\_\_\_\_
- 9.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or sewage sludge was applied to the lands?  
 Yes \_\_\_\_\_ No X Unknown \_\_\_\_\_
- 9.7 Have the lands or adjacent lands ever been used as a weapon firing range?  
 Yes \_\_\_\_\_ No X Unknown \_\_\_\_\_
- 9.8 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 X Unknown \_\_\_\_\_

9.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (eg. asbestos, PCB's)?

Yes ☐ No ☒ Unknown ☐

9.10 Is there any reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?

Yes ☐ No ☒ Unknown ☐

9.11 What information did you use to determine the answers to 9.1 to 9.10 above?  
Knowledge of historical and previous use of subject property

9.12 If previous use of property is industrial or commercial or if YES to any of 9.2 to 9.10, 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 ☒

#### ACKNOWLEDGEMENT CLAUSE

I acknowledge that the City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application – by reason of its approval to this Application.

8 July 2020  
Date

  
Signature Property Owner

SATHYENDRAN THURAIRAJAH - DIRECTOR, 2739534  
Print Name of Owner ONTARIO INC.

10. Dimensions of lands affected:

Frontage 17.98 m (58 Feet 11.9 inch)  
Depth 30.68 m (100 Feet 8 inch)  
Area 551.087 sq.m (5937.6 sq.feet)  
Width of street WHITNEY AVENUE: 50 Feet, LEYLAND St.: 60 Feet

11. Particulars of all buildings and structures on or proposed for the subject lands:  
(Specify ground floor area, gross floor area, number of stories, width, length, height, etc.)

Existing: Single storey dwelling.  
Width: 24 Feet, Length: 49 Feet  
Floor Area: 900 sq. feet

Proposed: Two 2 storey dwellings  
Width: 22 Feet, Length: 50 Feet 10 inches  
Height: 27 Feet 4 inches  
Ground Floor: 1097 sq. feet Gross: 2130 sq. feet

12. Location of all buildings and structures on or proposed for the subject lands;  
(Specify distance from side, rear and front lot lines)

Existing: FRONT: 10 Feet  
Rear: 42 Feet  
side (1): 27 Feet side (2): 8 Feet



Proposed: FRONT: 7.5m (24 Feet 6 inch)  
Rear : 7.51m (24 Feet 8 inch)  
Sides: 1.34m (4 Feet 5 inch)  
Between Houses: 1.85m (6 Feet 1 inch)

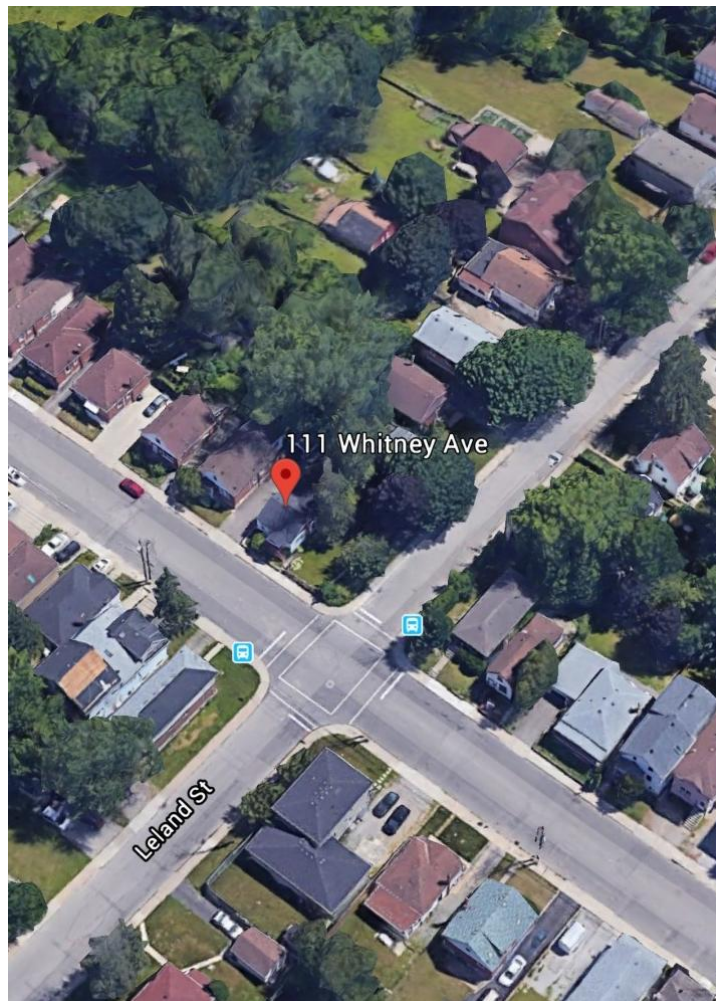
13. Date of acquisition of subject lands:  
Jan 30, 2020
14. Date of construction of all buildings and structures on subject lands:  
Planning to start construction in Early 2021
15. Existing uses of the subject property: Residential
16. Existing uses of abutting properties: Residential
17. Length of time the existing uses of the subject property have continued:  
85 Years
18. Municipal services available: (check the appropriate space or spaces)  
Water ✓ Connected ✓  
Sanitary Sewer ✓ Connected ✓  
Storm Sewers ✓
19. Present Official Plan/Secondary Plan provisions applying to the land:  
Neighbourhoods (Urban Hamilton Official Plan)  
Low Density Residential 2 (Ainslie Wood Westdale Secondary Plan)
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:  
Urban Protected Residential (C/S-1335) By-Law 6593
21. Has the owner previously applied for relief in respect of the subject property?  
☒ Yes ☐ No  
If the answer is yes, describe briefly.  
Consent approval for current lots (File HM/B-19:75)  
Minor Variance approval in conjunction with consent (File HM/A-19:279)
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?  
☐ Yes ☒ No
23. The applicant shall attach to each copy of this application a plan showing the dimensions of the subject lands and of all abutting lands and showing the location, size and type of all buildings and structures on the subject and abutting lands, and where required by the Committee of Adjustment such plan shall be signed by an Ontario Land Surveyor.

**NOTE:** It is required that two copies of this application be filed with the secretary-treasurer of the Committee of Adjustment together with the maps

## Planning Justification Report

### Proposed Single Detached Dwellings 111 and 115 Whitney Avenue, Hamilton

September 2020



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## 1. Introduction and Overview

MB1 has been retained by the owners of 111 and 115 Whitney Avenue in Hamilton (the “subject properties”) to provide professional land use planning services in support of the new single detached dwellings proposed for these residential lots. These lots were created through approval of consent application HM/B-19:75 on August 29, 2019. The lots are each 8.99 metres in width and 275 m<sup>2</sup>. Minor variances were granted under application HM/A-19:279 to permit the lot widths and areas, as well as to establish a maximum floor area ratio of 0.82 times the lot area. The owner proposes to construct dwellings that are consistent and compatible with the character and quality of the community. An application for Minor Variance has been submitted seeking relief to the zoning regulations to permit the proposed dwellings. This report outlines the planning rationale for the proposal and how each of the requested minor variances meets the tests set out under the Planning Act.

## 2. Existing Conditions and Context

### 2.1 Site Location and Context

The subject properties are located on the southeast corner of the intersection of Whitney Avenue and Leland Street. The site location is illustrated in **Figure 1**. An aerial view of the subject property is provided in **Figure 2**. The survey plan provided in **Figure 3** illustrates that each lot is 8.99 metres wide and 275 m<sup>2</sup> in area. There is an existing dwelling and two accessory buildings that will be demolished as part of the development.

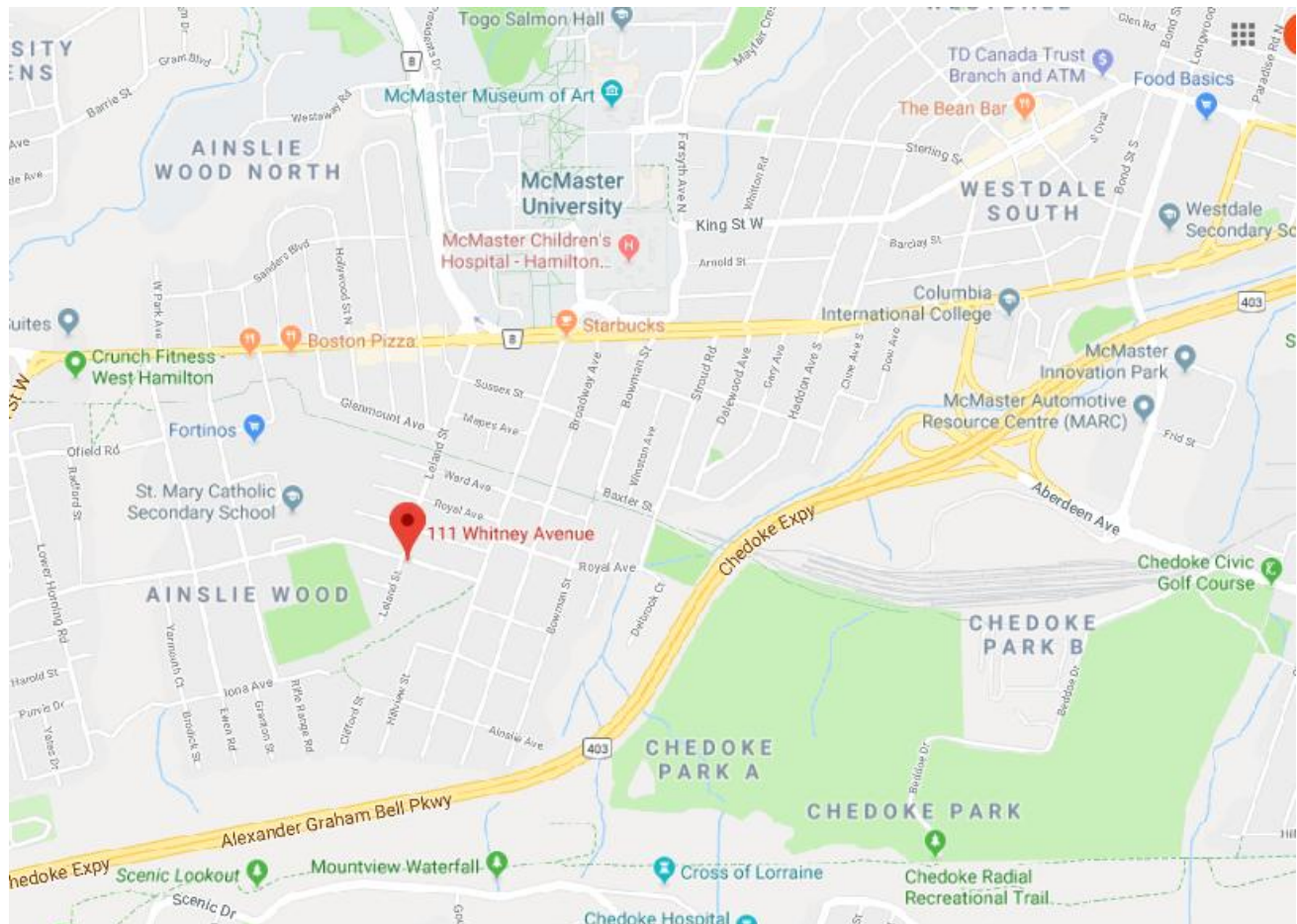
### 2.2 Surrounding Uses and Features

The subject properties are surrounded on all sides by low density residential uses. The community lot and built form fabric illustrated in **Figure 4**, in conjunction with the lot analysis provided in **Figure 5**, confirms the following key neighbourhood characteristics:

- Among the smallest lots in the area are those directly across from the subject properties at 116, 106 and 104 Whitney Avenue; the subject properties are wider and larger than each of these existing lots;
- Many of the dwellings immediately adjacent to the subject property and closest to the Whitney/Leland intersection make more intense use of their respective lots than others in the neighbourhood, in terms of floor area ratio, lot coverage, building height and setbacks;
- 121 and 123 Whitney Avenue are located directly across Leland Street and are similar in width and depth to the subject properties;
- The neighbourhood is characterized by variability in lot width, depth and area rather than having a consistent lot pattern;
- The neighbourhood is also characterized by variability in built form type, ranging from bungalows to full two-storey dwellings, including 112 and 116 Whitney Avenue, directly across from the subject property (**Figure 6**) and 122 Whitney on the northwest corner of the intersection (**Figure 7**);

- Many of the existing lots do not conform to the zoning regulations for minimum lot area (360 m<sup>2</sup>), minimum lot width (12 metres), maximum floor area ratio (0.45), as well as front, rear and side yard setbacks;
- Front yard setbacks are relatively consistent throughout the area, providing uniform street edge; and
- Many existing dwellings are constructed close to or on the side property lines providing little or no side yard setbacks.

There are also examples in the community of infill residential development on small lots that is compatible with the character of the neighbourhood. Recent examples are the new dwellings constructed one block to the north of the subject properties at 38 and 40 Holmes Avenue. These lots are smaller than the subject properties at less than 8 metres of frontage and approximately 240 m<sup>2</sup> of area. However, **Figure 8** demonstrates that these dwellings are appropriate and compatible for the community.



**Figure 1 – Site Location**



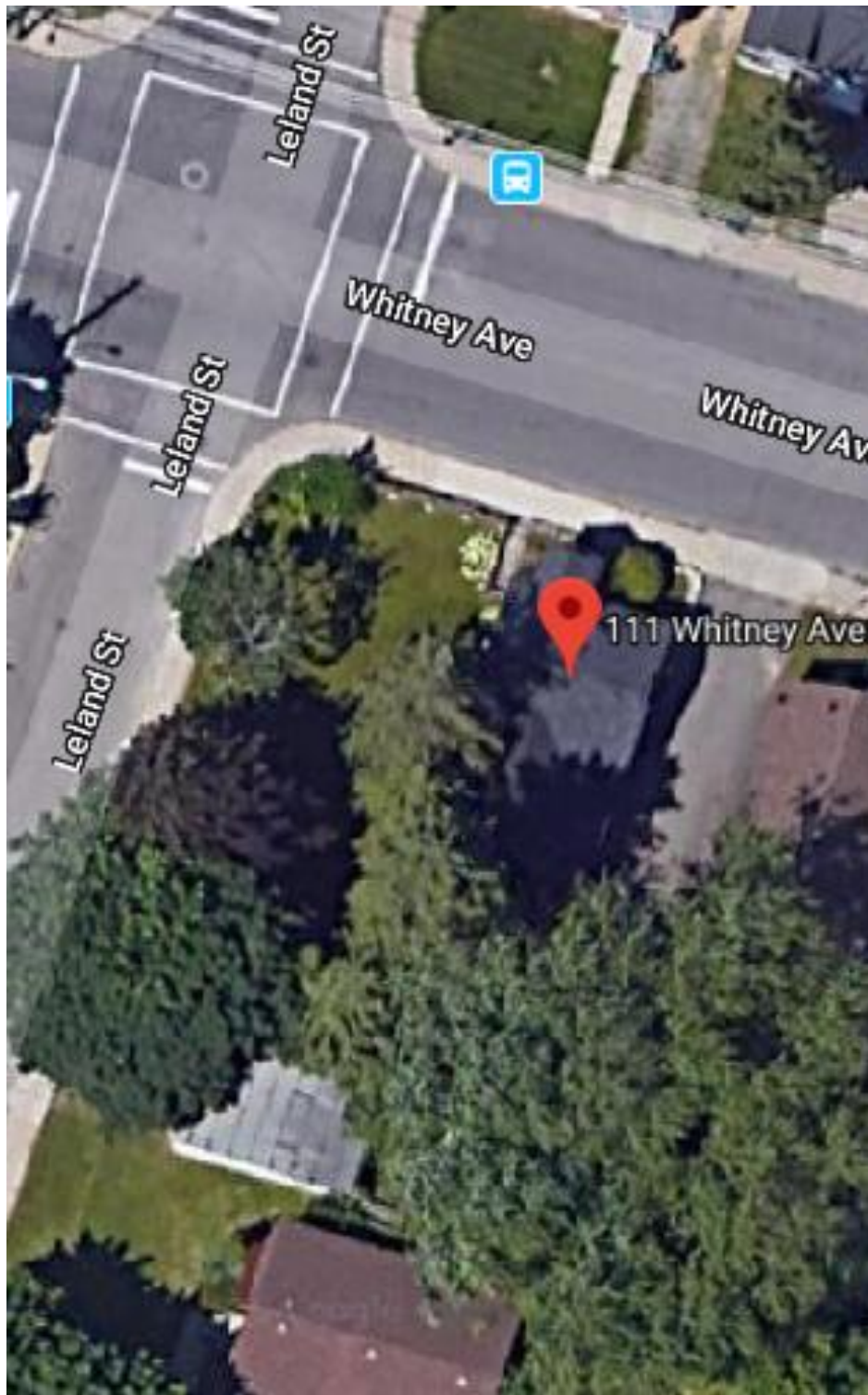
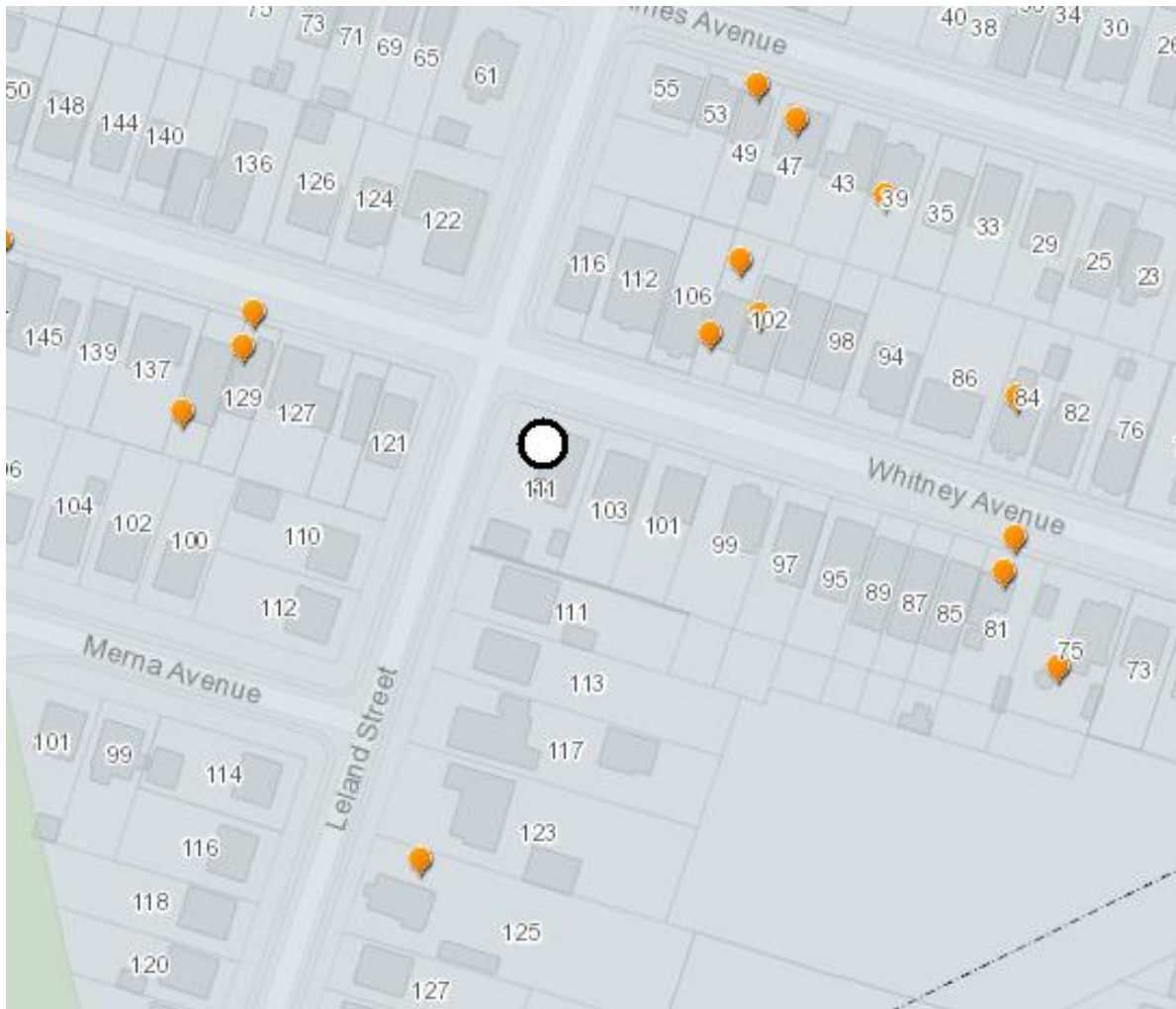


Figure 2 – Aerial View of Subject Property





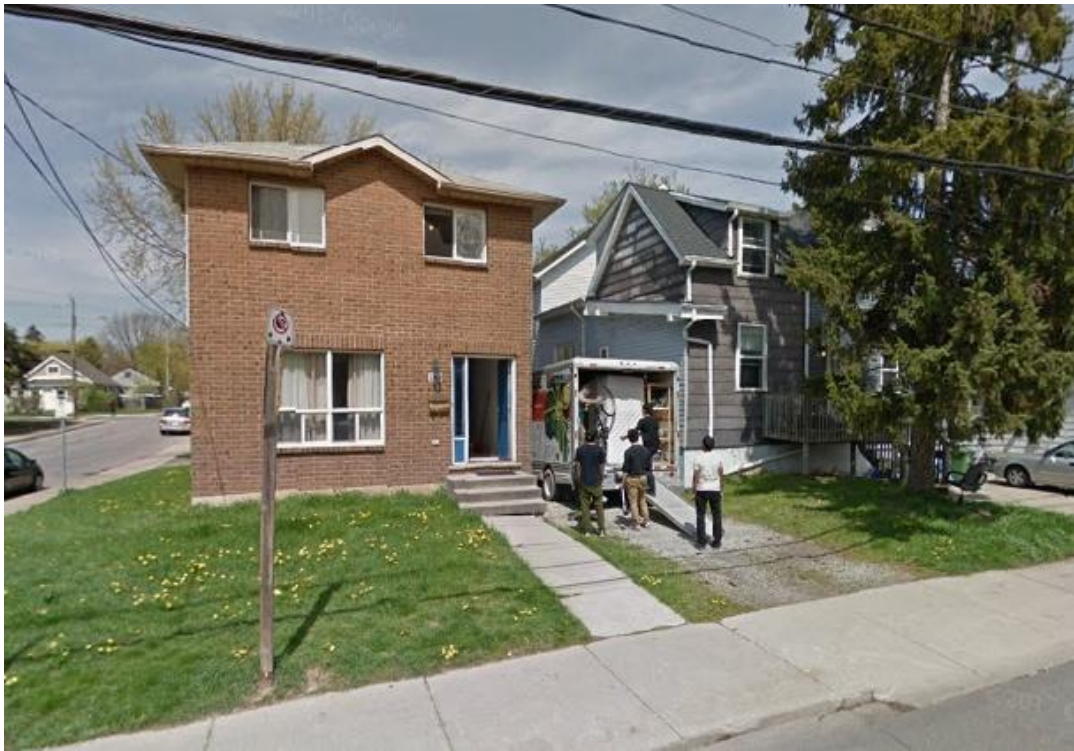


**Figure 4 – Community Lot and Building Fabric**

**Figure 5 – Lot Analysis**

Address	Lot Width (m)	Lot Depth (m)	Lot Area (m <sup>2</sup> )	Floor Area Ratio <sup>1</sup>
103 Whitney Ave	11.0	30.7	337.7	0.32
101 Whitney Ave	11.7	30.7	359.2	0.22
116 Whitney Ave	7.6	30.5	231.8	0.97
112 Whitney Ave	13.8	30.4	419.5	0.88
106 Whitney Ave	9.1	30.4	276.6	0.36
104 Whitney Ave	7.6	30.4	231.0	0.33
121 Whitney Ave	9.0	30	270.0	0.35
122 Whitney Ave	16.9	30.2	524	0.82
123 Whitney Ave	7.8	30	234.0	0.55

<sup>1</sup> Calculated based on City of Hamilton mapping of building footprints and number of storeys existing



**Figure 6 – Existing Dwellings at 112 and 116 Whitney Avenue**



**Figure 7 – 122 Whitney Avenue**





**Figure 8 – New Dwellings Constructed at 38 and 40 Holmes Avenue**

## **2.3     *Municipal Services and Infrastructure***

The subject properties front onto Whitney Avenue and have access to full municipal services, including water, sanitary and storm sewers. There are existing sidewalks on both sides of Whitney Avenue and Leland Avenue. Regular transit service is available on Leland Avenue with transit stops conveniently located on the northeast and southwest corners of the Whitney/Leland intersection. No municipal investment in infrastructure will be required to service the proposed dwellings.

## **2.4     *Existing Land Use Planning Designations***

### **2.4.1     City of Hamilton Official Plan**

As illustrated in the excerpt from Schedule E-1 included in **Figure 9**, the subject property is designated *Neighbourhoods* under the Urban Hamilton Official Plan (UHOP). In addition, Whitney Avenue is designated as a *Collector Road* under Schedule C of UHOP (**Figure 10**).



Figure 9 – UHOP Land Use Designations (Schedule E-1)

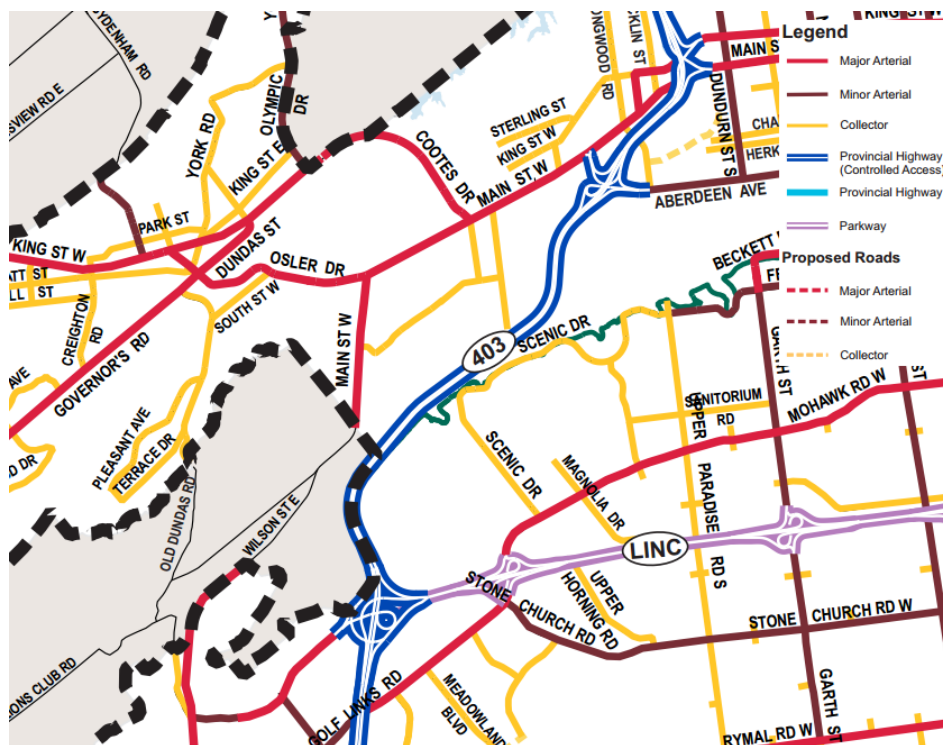
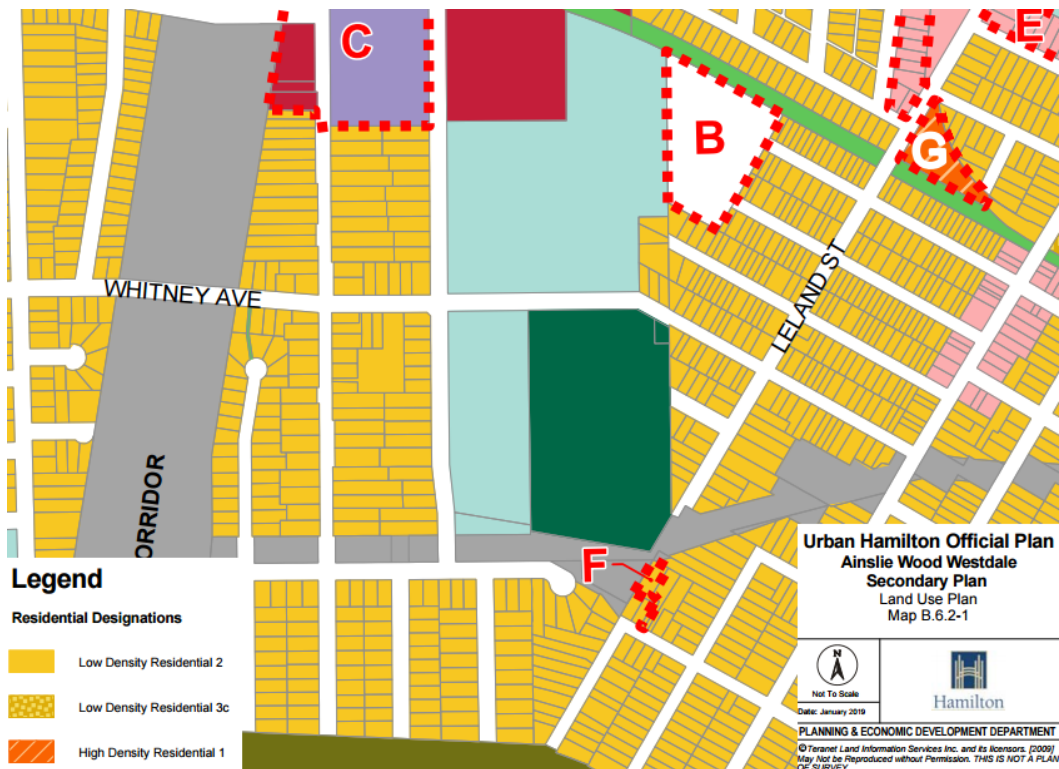


Figure 10 – Functional Road Classifications (Schedule C)

## 2.4.2 Ainslie Wood Westdale Secondary Plan

The subject property is located in the Ainslie Wood Westdale Secondary Plan area. **Figure 11** confirms that the subject property is designated *Low Density Residential 2* under this Plan.



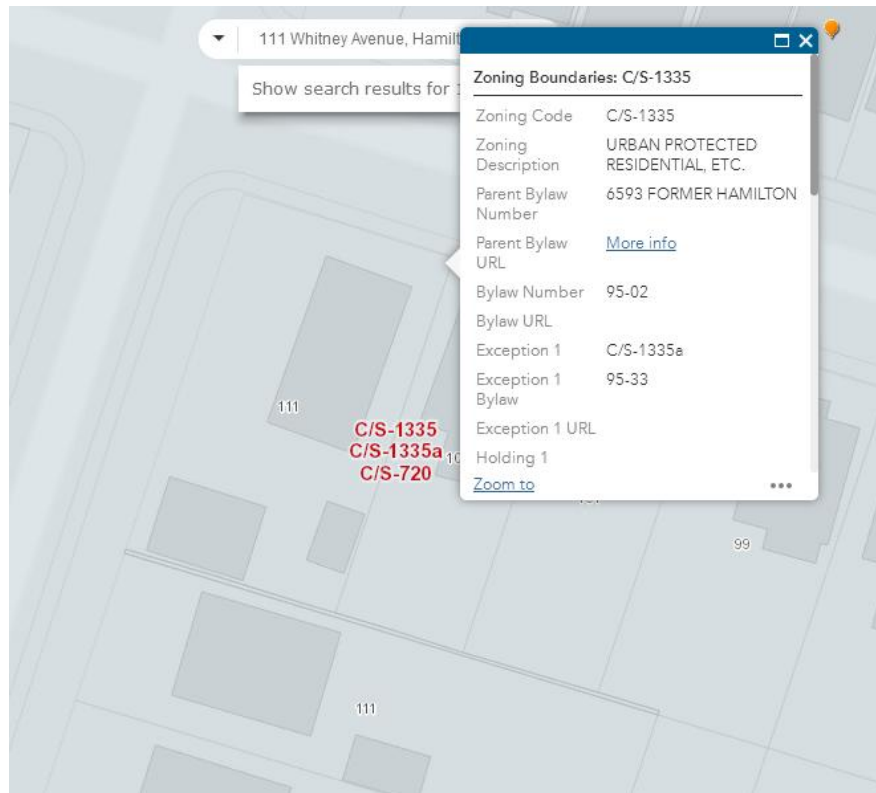
**Figure 11 – Secondary Plan Land Use Map**

## 2.4.3 City of Hamilton Zoning By-Law 6593

As illustrated in **Figure 12**, the subject property is designated *Urban Protected Residential (C/S-1335)* under Zoning By-Law 6593. Single detached dwellings and other low density residential uses are permitted under this designation subject to the applicable regulations, including special provision 1335.

As previously noted, minor variances were granted under application HM/A-19:279 to permit lot width of 8.99 metres in width, lot area of 275 m<sup>2</sup> and to establish a maximum floor area ratio of 0.82 times the lot area.





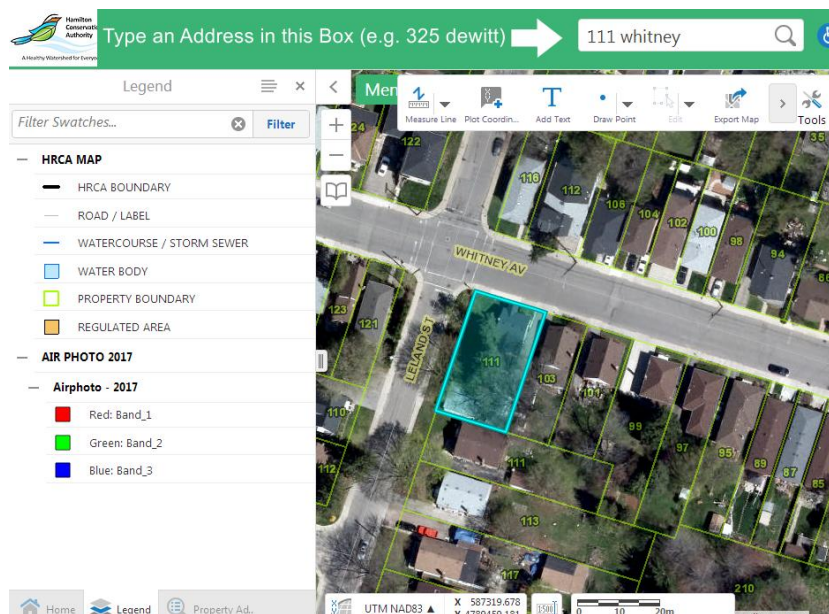
**Figure 12 – Existing Zoning Designation on Subject Property**

Special provision 1335 implements the following by-laws that also apply to the subject property:

- **No. 80-274:** A By-law changing the zoning designation from “D” to “C” and permitting two and three-family dwellings legally existing at the time of by-law passing;
- **No. 95-02:** A By-Law implementing the following provisions:
  - (a) no building or structure shall exceed 2 storeys and 9.0 metres in height;
  - (b) no building or structure shall have a gross floor area greater than the area within the district of the lot on which it is situate, multiplied by the floor area ratio factor of 0.45;
  - (c) gross floor area is the aggregate of the areas of the building or structure, including the basement, but shall not include:
    - an attached garage;
    - a detached garage;
    - the floor area occupied by heating, air conditioning and laundry equipment; and
    - a cellar.
  - (d) any portion of the dwelling where the ceiling height exceeds 4.6 metres, then the gross floor area for that portion of the dwelling shall be multiplied by a factor of 1.9.
- **No. 95-033:** A By-law clarifying that a basement or cellar is to be included in the calculation of gross floor area.

## 2.4.4 Hamilton Conservation Authority Regulated Area

**Figure 13** includes an excerpt from Hamilton Conservation Authority's regulatory mapping. This figure illustrates that the subject property is outside of the Regulated Area and has no identified natural features.



**Figure 13 – HCA Regulatory Mapping**

## 3. Previous Committee of Adjustment Applications

As already noted, the subject properties are lots created through approval of the consent application under File HM/B-19:75 on August 29, 2019. Minor Variances were approved under File HM/A-19:279 to permit the lot widths of 8.99 metres and lot areas of 275 m<sup>2</sup>. An additional Minor Variance was granted to permit maximum floor area ratio of 0.82 times the lot area. The Committee approved the consent and minor variance applications as they were deemed to satisfy the applicable tests and would facilitate a lot pattern and built form character that was consistent with the surrounding community. The intent was to design and build single detached dwellings that conformed to all other zoning regulations, including building height and front, side and rear yard setbacks.

As conditions of these approvals, the Owner of the subject properties is required to dedicate land on both Leland Street and Whitney Avenue for widenings required to achieve the ultimate right-of-way under the Official Plan. These land dedications are illustrated as Parts 1, 6 and 7 on the reference plan provided in **Figure 14**. The Owner has agreed to dedicate these lands, but the impact is such that the subject lots are reduced in lot area and lot depth. 115 Whitney Avenue will also have its frontage reduced from 8.99 metres to 3.42 metres. As a result, additional minor variances are being requested to allow the development proposal to proceed.



## 4. Current Development Proposal

### 4.1 Proposal Details

The development proposal involves construction of two new two-storey single detached dwellings – one on 111 Whitney Avenue and one on 115 Whitney Avenue. The dwellings will have the following floor areas:

- Ground Floor: 93.2 m<sup>2</sup> (1,003 ft<sup>2</sup>)
- Second Floor: 95.2 m<sup>2</sup> (1,025 m<sup>2</sup>)
- Total Above Grade: 188.4 m<sup>2</sup> (2,028 ft<sup>2</sup>)
- Basement: 87 m<sup>2</sup> (937 ft<sup>2</sup>)
- Total Floor Area: 275.4 m<sup>2</sup> (2,965 ft<sup>2</sup>)

The dwellings will connect to existing municipal water, sanitary and storm services. The intent is to construct new dwellings that are consistent and compatible with the built form character of the existing community, as well as the purpose and intent of the previous consent and minor variance applications. While the proposal represents residential intensification, and minor variances are required, the intensification will be compatible and respectful of the neighbourhood. The driveway for 115 Whitney Avenue is proposed from Leland Street, in order to maximize the quality of the corner lot and to most effectively balance location of the proposed dwelling and parking area with the daylight triangle.

The required land dedications will reduce the lot area, lot depth and front yard setbacks for both lots. It is very important to note any widening on Whitney Avenue and/or Leland Street will also **increase lot coverage and floor area ratio for all of lots on these streets, and also reduce front yard setbacks and lot areas. Therefore, the subject properties are not the only lots impacted by these land dedication requirements.**

The proposed site plan is provided in **Figure 15**. The proposed building elevations are provided in **Figures 16, 17, 18 and 19**. **Figure 20** includes a table comparing the applicable zoning regulations to the development proposal.

### 4.2 Land Use Planning Applications

Due to the changes to the subject properties as a result of dedicating the daylight triangle and road widening on Whitney Avenue and Leland Street, an application for Minor Variance has been submitted for the development proposal, including the following requested variances:

- To permit minimum lot width of less than 8.99 metres for 115 Whitney Avenue (8.99 metres is existing but frontage on Whitney Avenue will be reduced to 3.42 metres after dedication of the daylight triangle and widening on Leland Street and Whitney Avenue);

- To permit minimum lot area of less than 275 m<sup>2</sup> (subject properties currently comply but land dedication will reduce lot areas to 245.9 m<sup>2</sup> on 111 Whitney Avenue and 210.7 m<sup>2</sup> on 115 Whitney Avenue);
- To permit minimum front yard less than 6 metres (subject properties would have front yards of 7.51 metres without required land dedications, but these yards will be reduced to 4.34 metres and 4.30 metres on 111 Whitney Avenue and 115 Whitney Avenue respectively);
- To permit less than 50% of the gross area of the front yard for 111 Whitney Avenue to be used for a landscaped area in order to accommodate the proposed driveway and front walkway (Section 18(14)(i));
- To permit Minimum Side Yard less than 1.2 metres (0.9 metres requested for east side yard at 115 Whitney Avenue and west side yard at 111 Whitney Avenue); and
- To permit Minimum Side Yard less than 1.2 metres (0.34 metres requested for 115 Whitney Avenue to accommodate land dedication for widening on Leland Street); and
- To permit Minimum Parking Space dimensions less than 2.7 metres wide by 6.0 metres long.

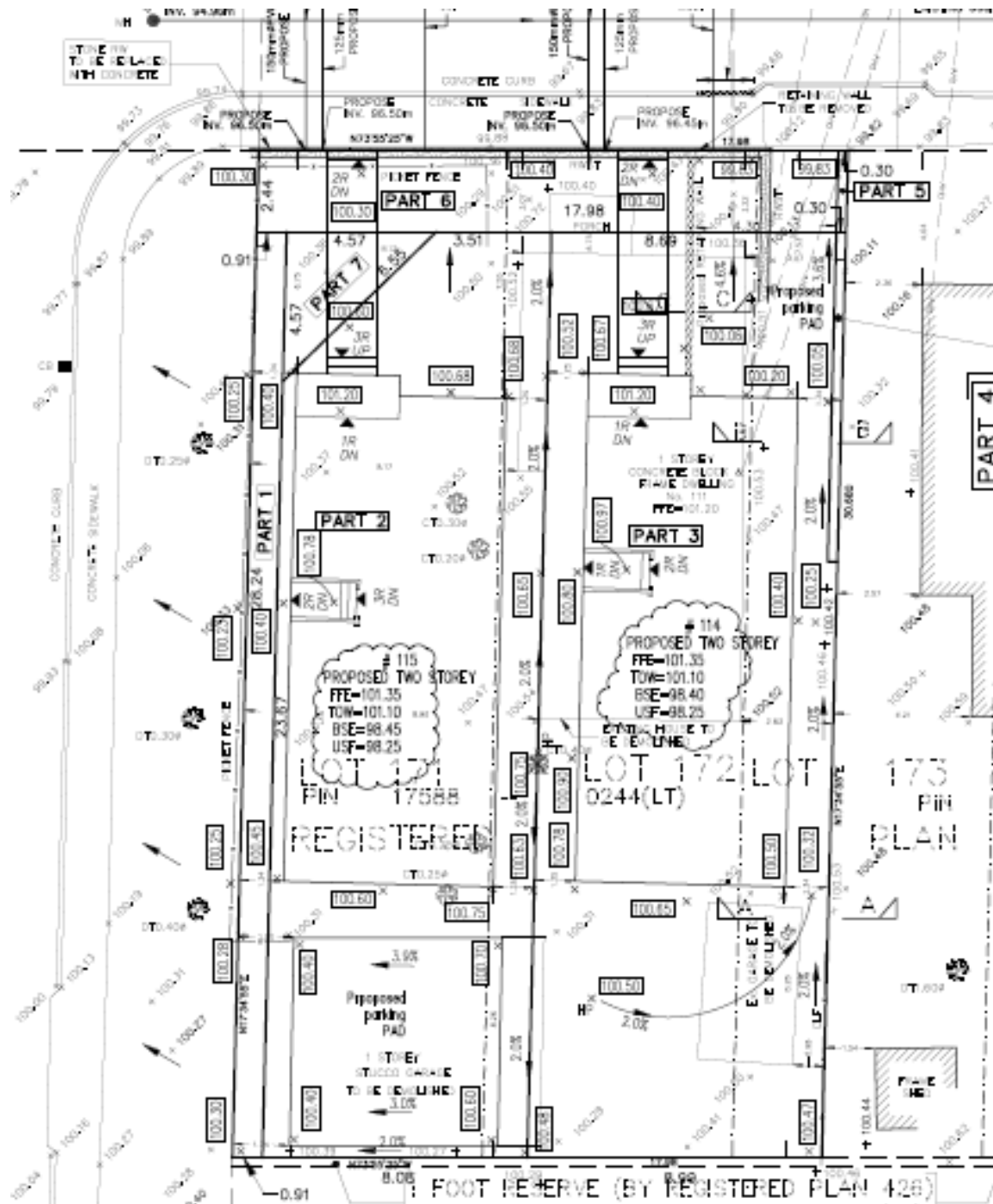


Figure 15 – Proposed Site Plan (and Grading Plan)

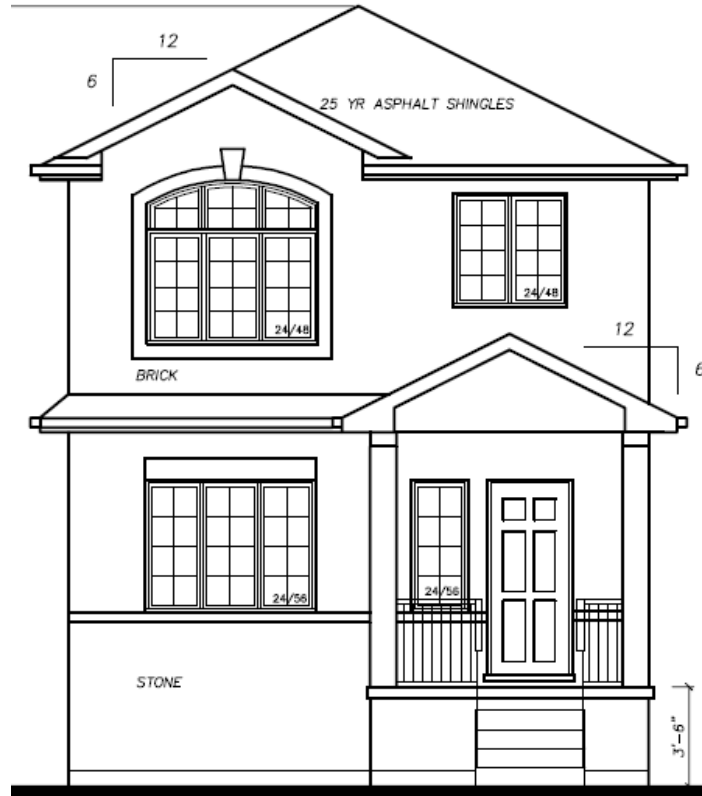


Figure 16 – Proposed Front Elevation

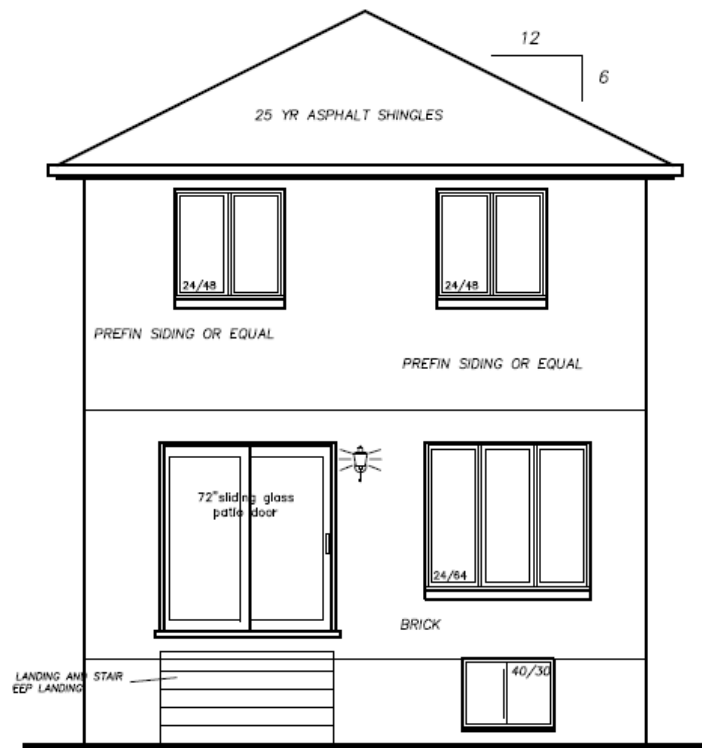
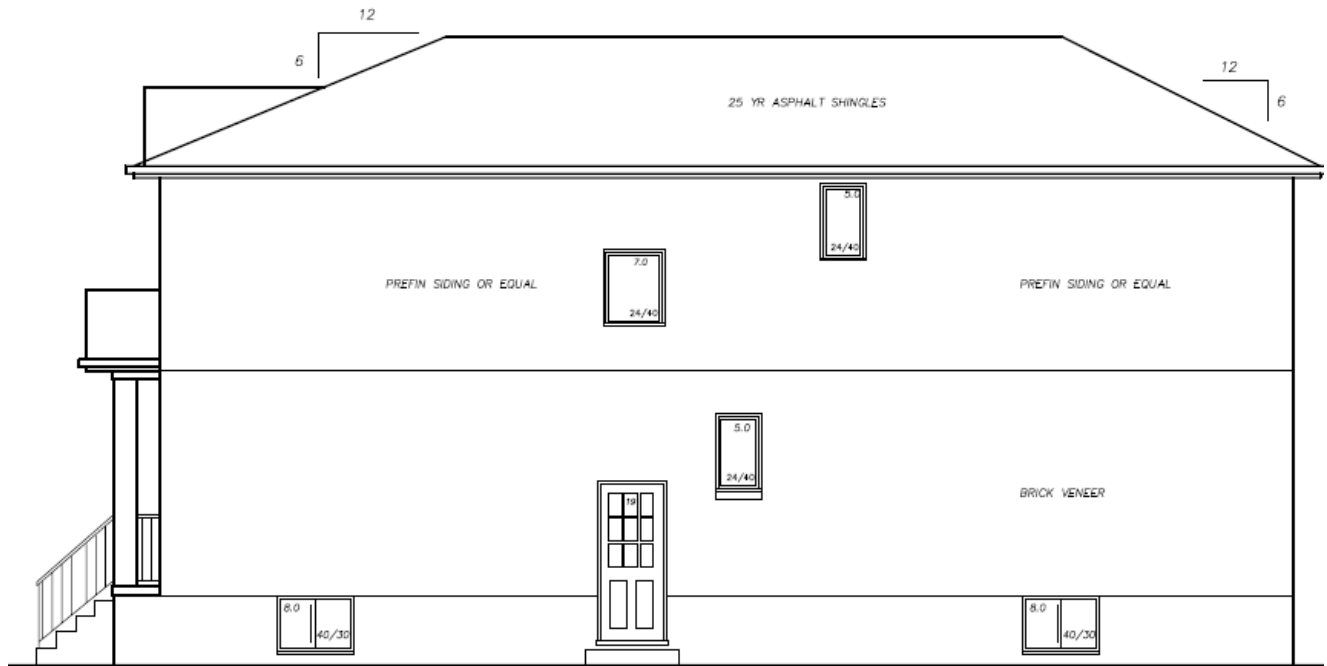


Figure 17 – Proposed Rear Elevation





**Figure 18 – Proposed Right Side Elevation**



**Figure 19 – Proposed Left Side Elevation**

**Figure 20 – Zoning Regulations**

Regulation	Required	111 Whitney Ave	115 Whitney Ave
Minimum Lot Width	8.9 m	8.99 m	8.99 m (existing) <b>3.42 m</b> <b>(frontage after widening and daylight triangle)</b>
Minimum Lot Area	275 m <sup>2</sup>	275 m <sup>2</sup> (existing) <b>245.9 m<sup>2</sup> (after road widening)</b>	275 m <sup>2</sup> (existing) <b>210.7 m<sup>2</sup> (after road widening and daylight triangle)</b>
Minimum Front Yard	6 m	7.51 m <b>4.34 m (after 3.17 m widening)</b>	7.51 m <b>4.30 m (after 3.21 m widening)</b>
Minimum Rear Yard	7.5 m	7.51 m	7.51 m
Minimum Side Yard	1.2 m	1.25 m / 1.34 m	1.25 m / 1.34 m <b>1.25 m/0.34 m (after 1 m widening on Leland Street)</b>
Maximum Floor Area Ratio	0.82 times the lot area	Above Grade: 0.69 (0.77 after widening) <b>With Basement: 1.0 (1.2 after widening)</b>	Above Grade: 0.69 (0.89 after widening) <b>With Basement: 1.0 (1.31 after widening)</b>
Maximum Building Height	9 m and 2 storeys	8.3 m and 2 storeys	8.3 m and 2 storeys

## 5. Land Use Planning Analysis

A detailed Planning Justification Report was prepared as part of the previous consent and minor variance application package and is included in **Appendix A**. The analysis and conclusions included in the previous Planning Justification Report remain valid for the current application as it relates to the policies and objectives of the Provincial Policy Statement, Places to Grow Growth Plan, Urban Hamilton Official Plan, Ainslie Wood Westdale Secondary Plan and Zoning By-Law 6593. The following sections evaluate each of the currently requested minor variances against this policy framework and the Planning Act tests for minor variance applications.

In general, the minor variances are being requested to facilitate construction of single detached dwellings on each of the subject lots that are consistent and compatible with the surrounding neighbourhood within the context of the City of Hamilton requirements for widening on Whitney Avenue and Leland Street, as well as a daylight triangle on the southeast corner of the intersection of these streets. The following points are critical to take into consideration:

- The variances requested for lot width, lot area, front yard setback and side yard setback are all resulting from the land dedication requirements and would not be required if the existing lot dimensions were maintained;

- All lots on Whitney Avenue and Leland Street will experience reductions in lot area, lot depth and front yard setback as a result of future widening of these streets, which will also increase floor area ratio and lot coverage for these properties;
- If the actual road widenings are not completed, the subject properties will effectively function with de facto wider front yard setbacks and greater lot depth and area;
- The proposed parking configurations on the subject lots are a result of the limitations presented by the proposed widening of Whitney Avenue and the daylight triangle;
- The location of the subject properties on the corner of the Whitney/Leland intersections minimizes the number of properties that would be impacted by the proposal and requested variances;
- The proposed dwellings fit in with the character of the built form in the community regardless of the requested minor variances and their deviation from the zoning regulations;
- The existing site statistics for the lots in the surrounding community cannot be used for comparison against the development proposal and requested variances as they do not take into consideration the impacts that the proposed road widenings would have on these lots;
- The proposed dwellings can be constructed on the lots in their existing configuration and dimensions (without land dedication) without requiring any variances for building height, lot coverage or setbacks;
- The proposed dwellings would not exceed the maximum floor area ratio if only the above grade floors were included in the calculation; the additional basement floor area provides more liveable space on the subject property without adversely impacting the quality and character of the neighbourhood, but triggers the requirement for a minor variance to the maximum floor area ratio;
- While more intense than existing, the proposed lots will be consistent and compatible with the existing lot pattern in the community and represent orderly development of the subject lands;
- The intensified land use pattern will support the targets for increased residential density in Neighbourhoods designations; and
- The proposed lots will be for single detached dwellings similar in character to others in the neighbourhood and, consequently, would not result in adverse impacts related to shadow, overlook, noise, lighting, traffic and other nuisances.

## **5.1 *Minor Variances for Lot Width, Lot Area, Front and Side Yard Setbacks and Front Landscaping Area***

Under existing conditions, the subject lots meet the zoning regulations for minimum lot width and minimum lot area. If the proposed dwellings were constructed on these lots, they would comply with the required minimum front and side yard setbacks. The requested minor variances are triggered by the land dedication required to provide the widenings on Leland Street and Whitney Avenue, in conjunction with the daylight triangle. The widening of Whitney Avenue also makes it more challenging to accommodate a driveway and parking area while also achieving greater than 50% landscaping in the front yard.

It is important to reiterate that all lots in the community that front onto Whitney Avenue and/or Leland Street will experience reductions in lot area, lot depth and front yard setbacks as a result of the proposed widenings. In most of these cases, the minimum regulations would not be achieved on these lots post-widening and the existing conditions would become legal non-conforming. Therefore, the subject lots will conform to the character of the community in terms of these regulations, rather than being outliers.

It is my opinion that the proposed single detached dwellings are appropriate for the subject lots and will conform to the character of the surrounding neighbourhood. The requested variances for lot width, lot area, front and side yards, and front landscaping area are triggered by the land dedication required to widen Leland Street and Whitney Avenue and provide at daylight triangle at the intersection. On this basis, these minor variances:

- Are appropriate and desirable for development and use of the subject lands;
- Are minor in nature;
- Conform to the general purpose and intent of the Urban Hamilton Official Plan; and
- Conform to the general purpose and intent of Zoning By-Law 6593.

## **5.2 Minor Variance for Maximum Floor Area Ratio**

The floor area proposed in the basements of the dwelling units will maximize the efficiency of land use within a structure that conforms to the character of the area, which is consistent with the residential intensification policies of UHOP and the Secondary Plan. The first and second floor will have a combined gross floor area that translates into 0.69 times the lot area prior to land being dedicated to the City of Hamilton, which is significantly below the ratio of 0.82 permitted. Even after the required lands are dedicated, 111 Whitney Avenue will remain at a ratio of 0.77 for the above grade levels. 115 Whitney Avenue will have an above grade ratio of 0.89, exceeding the maximum permitted, as a result of the additional land dedication for the daylight triangle.

The Zoning By-Law requires the floor area in the basement to be included in the floor area ratio calculation. As a result, the ratio would be 1.0 times the lot area prior to land dedication and 1.2 and 1.31 for 111 Whitney Avenue and 115 Whitney Avenue respectively after land dedication. However, the requirement to include the basement in the GFA calculation dates to a By-Law from 1995, which pre-dates the Urban Hamilton Official Plan. Including basement areas in the GFA is not a standard practice in Zoning By-Law 6593 and is not consistent with the City's growth and intensification objectives. This practice restricts the opportunity to accommodate reasonable intensification and land use efficiency within a structure that conforms to the built form character of the area. There are no doubt existing dwellings in the community that use basement areas as functional living space and would be included in a calculation of floor area ratio. In most of these cases, the floor area ratio would exceed the maximum permitted under the Zoning regulations, even as modified by the previous minor variance application. Nevertheless, these dwellings represent the neighbourhood character and would not be considered to result in negative impacts.

## 5.3 *Minor Variances of Parking and Manoeuvrability*

The land dedication for road widening and daylight triangle will create challenges for accommodating a typical driveway and parking situation for each single detached dwelling. 111 Whitney Avenue represents a standard front driveway and parking area that has been modified by the widening requirements on Whitney Avenue. 115 Whitney Avenue incorporates a parking area at the rear of the dwelling to not only accommodate the widening of Leland Street and Whitney Avenue, but also the daylight triangle. Other lots on Whitney Avenue and Leland Street will have their front yards impacted by these widenings and experience similar impacts to their driveways and parking configurations. It is my opinion that the proposed parking and manoeuvrability effectively balances development of each lot for a single detached dwelling with the need to provide an appropriate level of parking and accessibility.

## 6. **Conclusions**

The development proposal will result in single detached dwellings that fit with the character of community, are compatible with the surrounding residential land uses, and will have no adverse impacts on the neighbourhood. The minor variances have been requested to facilitate this use and built form and also accommodate the land dedication requirements of the City of Hamilton. The proposal and requested variances also do not represent material changes from the previous Committee of Adjustment approvals that would warrant denying the applications now before the Committee. Therefore, it is my opinion that each of the requested minor variances:

- Conforms to the purpose and intent of the Urban Hamilton Official Plan and Ainslie Wood Westdale Secondary Plan;
- Conform to the purpose and intent of Zoning By-Law 6593;
- Are minor in nature; and
- Are desirable for the development and use of the subject property.

Regards,



Michael Barton, MCIP, RPP  
President  
905-599-9973

## **Planning Justification Report**

### **Proposed Residential Redevelopment Applications for Consent and Minor Variance**

**111 Whitney Avenue**

**Prepared for:**

**The City of Hamilton**

**July 2019**



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## 1. Introduction and Overview

MB1 Development Consulting Inc. (“MB1”) has been retained to provide planning and advisory services in support of the proposed severance and residential redevelopment of 111 Whitney Avenue in the City of Hamilton (the “subject property”). The proposal involves severance of the existing lot into two equal lots, to allow for construction of a new two-storey detached dwelling on each lot. The existing one-storey detached dwelling and detached garages on the subject property will be removed as part of the development proposal. This Planning Justification Report has been prepared to outline the rationale for approving the severance within the applicable land use planning context.

The development proposal involves creation of lots more consistent with the existing community character than the existing condition and construction of two new two-storey single detached dwellings that are consistent and compatible with the neighbourhood character. The proposal will also facilitate residential intensification that conforms to the applicable Provincial and municipal land use policies.

## 2. Development Proposal

### 2.1 *Conceptual Plan and Proposed Uses*

The proposed severance will divide the subject property into two lots that measure 8.99 metres in width, 30.68 metres in depth and 275.8 m<sup>2</sup> in area. Minor variances will be required to permit minimum lot width less than 12 metres and minimum lot area less than 360 m<sup>2</sup>. In order to facilitate construction of homes of approximately 225 m<sup>2</sup> (2,420 ft<sup>2</sup>), minor variance approval will also be required to permit floor area ratio greater than 0.45. However, house designs have not yet been prepared for the proposed lots. The intent is for construction of the proposed dwelling units to comply with all other zoning regulations, including building height and front, rear and side yard setbacks. The severance reference plan is included in **Figure 1**.

### 2.2 *Land Use Planning Applications*

The following concurrent applications have been submitted for the subject property:

- Consent to sever the subject property to create one new lot; and
- Minor Variance to permit:
  - Minimum Lot Area of 275.8 m<sup>2</sup> (360 m<sup>2</sup> required);

- Minimum Lot Width of 8.99 m (12 m required); and
- Maximum Floor Area Ratio of 0.82 (0.45 required).

## 2.3 Municipal Infrastructure

The following municipal infrastructure is available to the subject property:

- Water, sanitary sewer and storm sewer;
- Sidewalks on both sides of Leland Street;
- Direct access to Whitney Avenue (collector road); and
- Transit service along Whitney Avenue with a transit stop at the Whitney/Leland intersection.

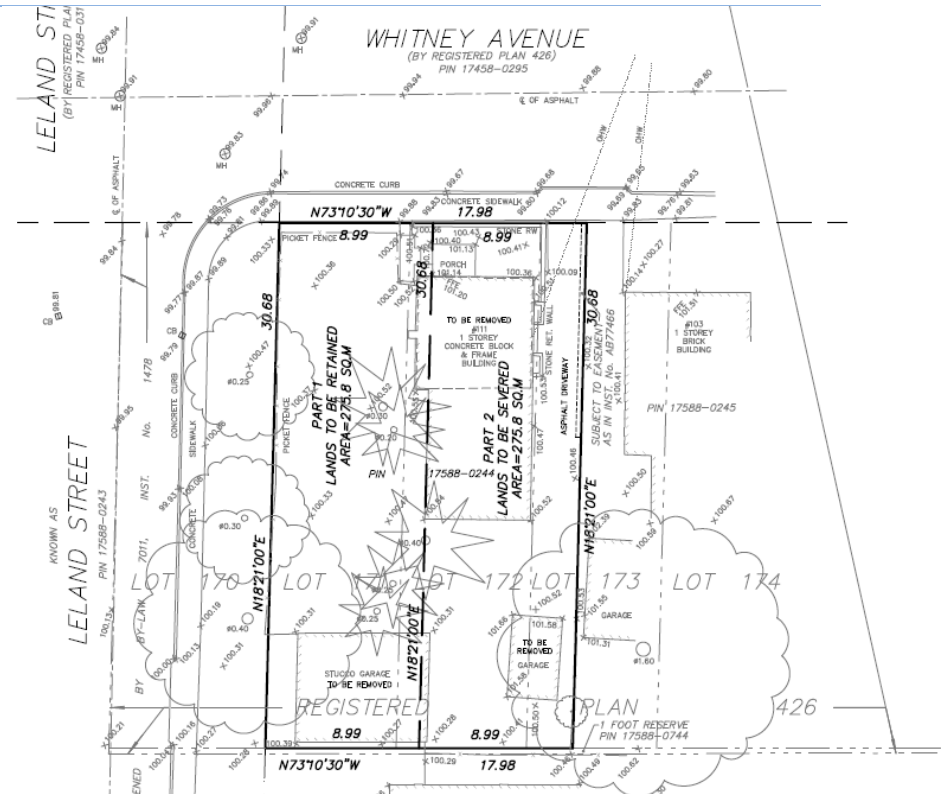
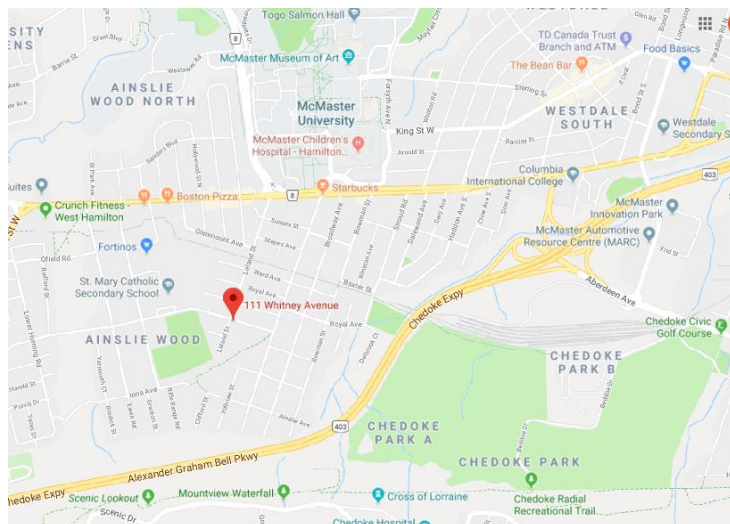


Figure 1 – Proposed Severance Plan

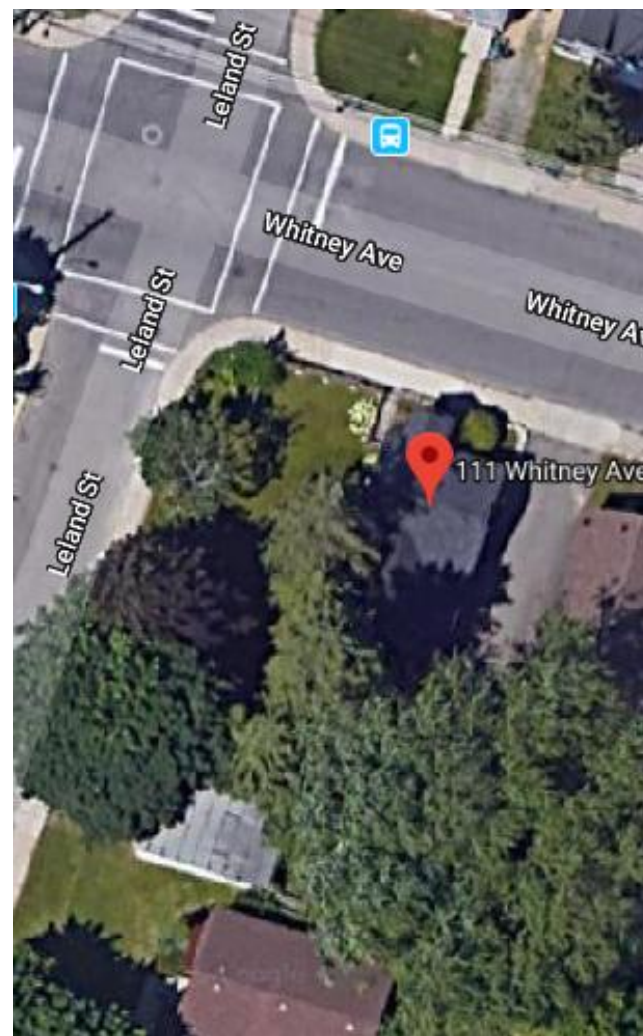
## 3. Existing Conditions and Site Context

### 3.1 Site Location and Context

The subject property is located on the southeast corner of the intersection of Whitney Avenue and Leland Street. The site location is illustrated in **Figure 2**. An aerial view of the subject property is provided in **Figure 3**. The survey indicates that the subject property is 17.98 metres in width and 30.68 metres in depth, for a lot area of 551.6 m<sup>2</sup>. The existing building footprint is approximately 107.5 m<sup>2</sup> (1,157 ft<sup>2</sup>). The two existing detached garages include an additional 70 m<sup>2</sup> (753 ft<sup>2</sup>) of floor area.



**Figure 2 – Site Location**

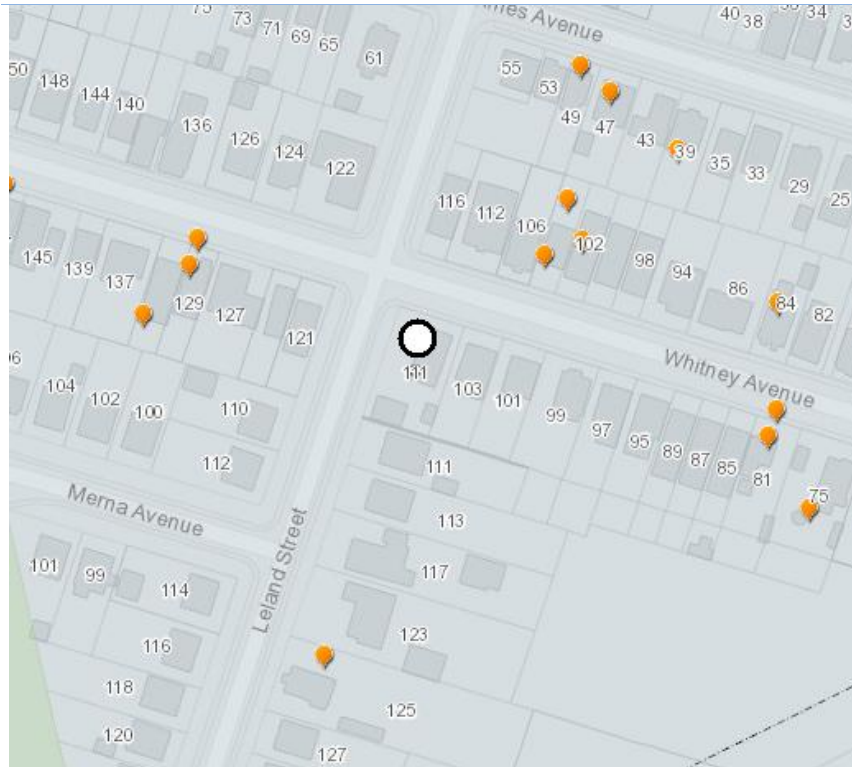


**Figure 3 – Aerial View of Subject Property**

### 3.2 Surrounding Land Uses and Features

The subject property is surrounded on all sides by low density residential uses. **Figure 4** illustrates the property fabric and built form in the surrounding community, including the following key characteristics:

- As identified in the lot analysis in **Figure 5**, 111 Whitney Avenue is significantly wider and greater in area than most of the lots in the surrounding area;
- Among the smallest lots in the area are those directly across from the subject property at 116, 106 and 104 Whitney Avenue; the lots proposed to be created through severance would actually be wider and larger than each of these existing lots;
- Many of the dwellings immediately adjacent to the subject property and closest to the Whitney/Leland intersection make more intense use of their respective lots than others in the neighbourhood, in terms of floor area ratio, lot coverage, building height and setbacks;
- 121 and 123 Whitney Avenue are located directly across Leland Street and are similar in width and depth to the lots proposed through the consent application;
- The neighbourhood is characterized by variability in lot width, depth and area rather than having a consistent lot pattern;
- The neighbourhood is also characterized by variability in built form type, ranging from bungalows to full two-storey dwellings, including 112 and 116 Whitney Avenue, directly across from the subject property (**Figure 6**) and 122 Whitney on the northwest corner of the intersection (**Figure 7**);
- Many of the existing lots do not conform to the zoning regulations for minimum lot area (360 m<sup>2</sup>), minimum lot width (12 metres), maximum floor area ratio (0.45), as well as front, rear and side yard setbacks;
- Front yard setbacks are relatively consistent throughout the area, providing uniform street edge; and
- Many existing dwellings are constructed close to or on the side property lines providing little or no side yard setbacks.



**Figure 4 – Community Lot and Building Fabric**

**Figure 5 – Lot Analysis**

Address	Lot Width (m)	Lot Depth (m)	Lot Area (m <sup>2</sup> )	Floor Area Ratio <sup>1</sup>
<b>111 Whitney Ave (existing)</b>	<b>17.98</b>	<b>30.68</b>	<b>551.6</b>	<b>0.32</b>
103 Whitney Ave	11.0	30.7	337.7	0.32
101 Whitney Ave	11.7	30.7	359.2	0.22
116 Whitney Ave	7.6	30.5	231.8	0.97
112 Whitney Ave	13.8	30.4	419.5	0.88
106 Whitney Ave	9.1	30.4	276.6	0.36
104 Whitney Ave	7.6	30.4	231.0	0.33
121 Whitney Ave	9.0	30	270.0	0.35
122 Whitney Ave	16.9	30.2	524	0.82
123 Whitney Ave	7.8	30	234.0	0.55

<sup>1</sup> Calculated based on City of Hamilton mapping of building footprints and number of storeys existing





Figure 6 – Existing Dwellings at 112 and 116 Whitney Avenue

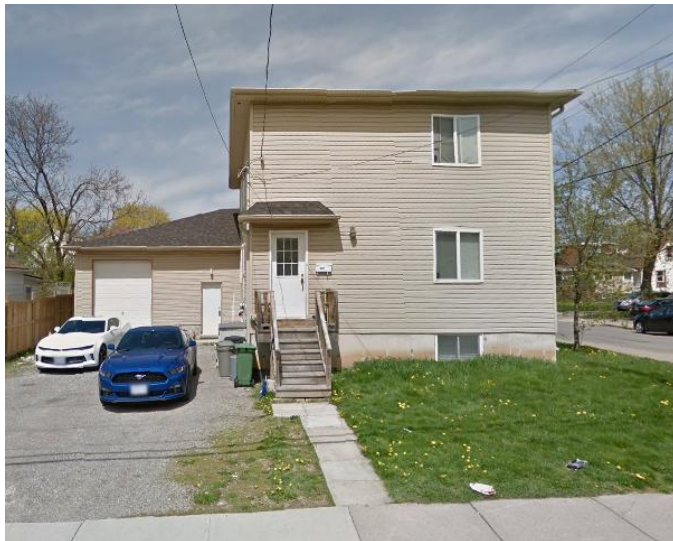


Figure 7 – 122 Whitney Avenue

## 3.3 Existing Land Use Planning Designations

### 3.3.1 City of Hamilton Official Plan

As illustrated in the excerpt from Schedule E-1 included in **Figure 8**, the subject property is designated *Neighbourhoods* under the Urban Hamilton Official Plan (UHOP). In addition, Whitney Avenue is designated as a *Collector Road* under Schedule C of UHOP (**Figure 9**).

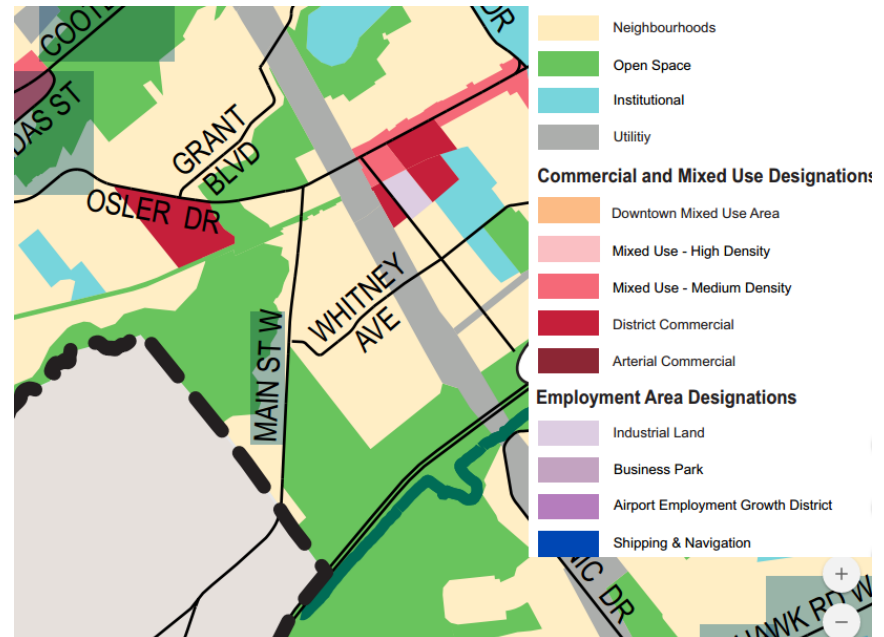


Figure 8 – UHOP Land Use Designations (Schedule E-1)

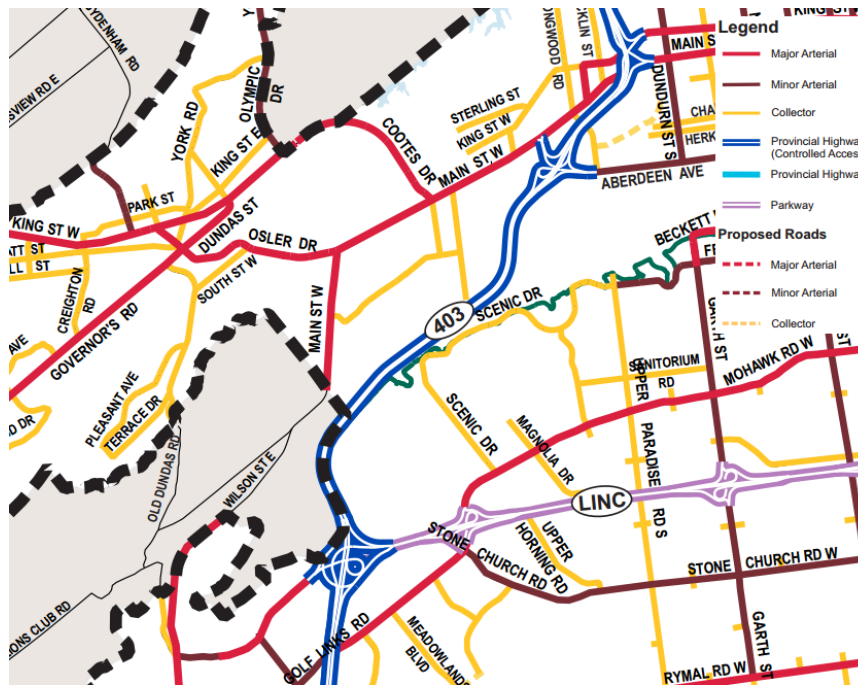


Figure 9 – Functional Road Classifications (Schedule C)

### 3.3.2 Ainslie Wood Westdale Secondary Plan

The subject property is located in the Ainslie Wood Westdale Secondary Plan area. **Figure 10** confirms that the subject property is designated *Low Density Residential 2* under this Plan.

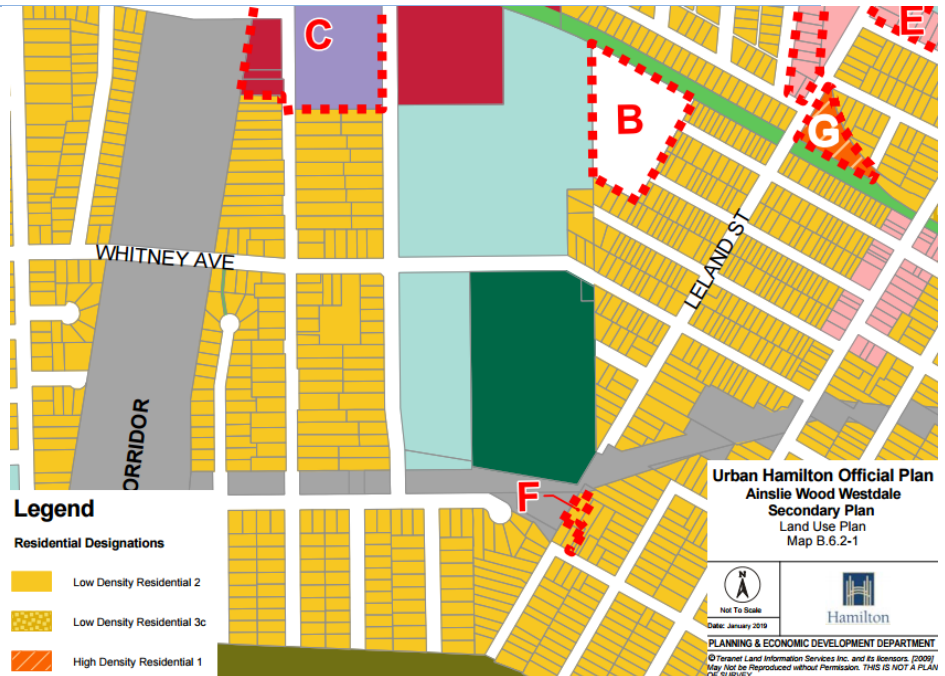
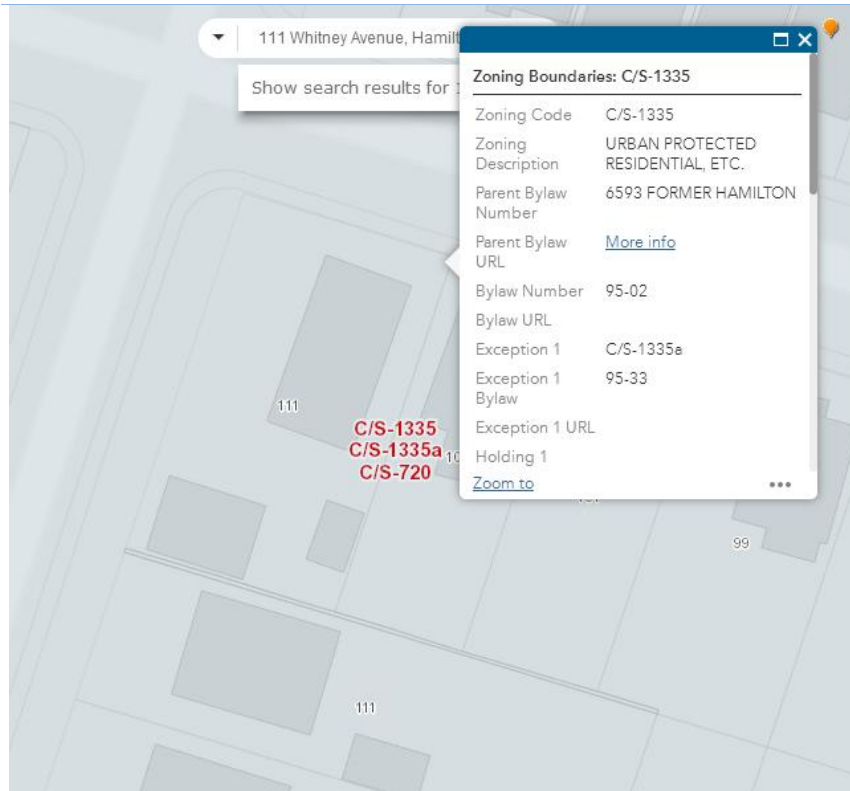


Figure 10 – Secondary Plan Land Use Map

### 3.3.6 City of Hamilton Zoning By-Law 6593

As illustrated in **Figure 11**, the subject property is designated *Urban Protected Residential (C/S-1335)* under Zoning By-Law 6593. Single detached dwellings and other low density residential uses are permitted under this designation subject to the applicable regulations, including special provision 1335.





**Figure 11 – Existing Zoning Designation on Subject Property**

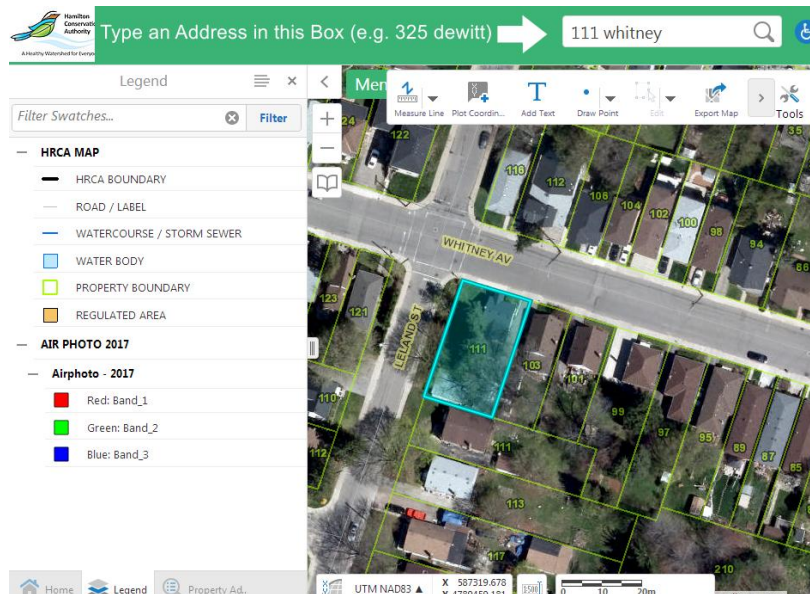
Special provision 1335 implements the following by-laws that also apply to the subject property:

- **No. 80-274:** A By-law changing the zoning designation from “D” to “C” and permitting two and three-family dwellings legally existing at the time of by-law passing;

- **No. 95-02:** A By-Law implementing the following provisions:
  - (a) no building or structure shall exceed 2 storeys and 9.0 metres in height;
  - (b) no building or structure shall have a gross floor area greater than the area within the district of the lot on which it is situate, multiplied by the floor area ratio factor of 0.45;
  - (c) gross floor area is the aggregate of the areas of the building or structure, including the basement, but shall not include:
    - an attached garage;
    - a detached garage;
    - the floor area occupied by heating, air conditioning and laundry equipment; and
    - a cellar.
  - (d) any portion of the dwelling where the ceiling height exceeds 4.6 metres, then the gross floor area for that portion of the dwelling shall be multiplied by a factor of 1.9.
- **No. 95-033:** A By-law clarifying that a basement or cellar is to be included in the calculation of gross floor area.

### 3.3.7 Hamilton Conservation Authority Regulated Area

**Figure 12** includes an excerpt from Hamilton Conservation Authority's regulatory mapping. This figure illustrates that the subject property is outside of the Regulated Area and has no identified natural features.



**Figure 12 – HCA Regulatory Mapping**

## 4. Land Use Planning Policy Framework

### 4.1 Ontario Planning Act

#### 4.1.1 Authority to Grant Consents

Section 53(1) of the Planning Act authorizes consents to be granted if it is determined that a plan of subdivision is not required for the proper and orderly development of the municipality. Key to determining whether consent should be granted is section 53(12), which requires the approval authority to have regard to the matters under section 51(24), which are the following:

- a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- b) whether the proposed subdivision is premature or in the public interest;
- c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- d) the suitability of the land for the purposes for which it is to be subdivided;
  - d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision

with the established highway system in the vicinity and the adequacy of them;

- f) the dimensions and shapes of the proposed lots;
- g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- h) conservation of natural resources and flood control;
- i) the adequacy of utilities and municipal services;
- j) the adequacy of school sites;
- k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*.

Section 51(24)a) refers to the following matters of Provincial interest that the municipality shall have regard to:

- a) the protection of ecological systems, including natural areas, features and functions;

- b) the protection of the agricultural resources of the Province;
- c) the conservation and management of natural resources and the mineral resource base;
- d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- e) the supply, efficient use and conservation of energy and water;
- f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- g) the minimization of waste;
- h) the orderly development of safe and healthy communities; (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
- i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- j) the adequate provision of a full range of housing, including affordable housing;
- k) the adequate provision of employment opportunities;
- l) the protection of the financial and economic well-being of the Province and its municipalities;
- m) the co-ordination of planning activities of public bodies;
- n) the resolution of planning conflicts involving public and private interests;
- o) the protection of public health and safety;
- p) the appropriate location of growth and development;

- q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- r) the promotion of built form that,
  - is well-designed,
  - encourages a sense of place, and
  - provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- s) the mitigation of greenhouse gas emissions and adaptation to a changing climate.

#### 4.1.2 Authority to Grant Minor Variances

Section 45(1) of the Planning Act authorizes the Committee of Adjustment to grant minor variances on the basis of the following tests being met to the Committee's satisfaction:

- Building or structure or the use thereof is desirable for the appropriate development or use of the land;
- Building or structure maintains the general intent of the Official Plan;
- Building or structure maintains the general intent of the Zoning By-Law; and
- The variances are minor in nature.

#### 4.2 Provincial Policy Statement

Section 3 of the Planning Act requires that municipal decisions affecting planning matters "shall be consistent" with the Provincial Policy Statement (PPS). The Vision for Ontario's Land Use Planning System outlined in Part IV of the PPS includes the following key points:

- Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety; and
- Efficient development patterns optimize the use of land, resources, public investment in infrastructure and public service facilities.

Section 1.0 of Part V of the PPS outlines policies for Building Strong Healthy Communities. In Section 1.1, a number of principles are outlined that sustain healthy, liveable and safe communities, including:

- Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs; and

- Ensuring that necessary infrastructure, electricity generation facilities and transmission and distribution systems, and public service facilities are or will be available to meet current and projected needs.

Section 1.1.2 also mandates that, within settlement areas, sufficient land shall be made available through intensification and redevelopment. Section 1.1.3.5 reiterates that municipalities shall establish and implement minimum targets for intensification and redevelopment within built-up areas. This is consistent with the policies of the Growth Plan for the Greater Golden Horseshoe, which represent the minimum targets. Similarly, Section 1.1.3.6 indicates that new development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mixed of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

Section 1.4 relates specifically to Housing, and section 1.4.1 a) indicates that planning authorities shall maintain the ability to accommodate residential growth for a minimum period of 10 years through intensification and redevelopment. Section 1.4.3 suggests that this be done by “directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and project needs”. Similarly, this section promotes “densities for new housing which efficiently use land, resources, infrastructure and public service facilities”.

Section 1.6 emphasizes the importance of efficient and cost effective infrastructure and public service facilities. Specifically, these facilities are to be financially viable over their life cycle and available to meet current and projected needs. Section 1.6.3 suggests that priority be given to development that uses and optimizes existing infrastructure rather than development that requires construction of new facilities.

#### **4.3 Growth Plan for the Greater Golden Horseshoe**

The Places to Grow Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”) is aimed at growth that sustains the economy, builds strong communities and promotes a healthy environment. The key policy directions that stem from the objective of mitigating the negative effects of growth include the following:

- Directing growth to built-up areas;
- Promoting transit-supportive densities; and
- Conservation of natural systems and agricultural areas.

Among the Guiding Principles for development of land outlined in the Growth Plan are the following:

- Build compact, vibrant and *complete communities*;
- Plan and manage growth to support a strong and competitive economy; and
- Optimize the use of existing and new infrastructure to support growth in a compact, efficient form.

The Growth Plan also outlines how and where growth should occur, and indicates that better use of land and infrastructure can be made by directing growth to existing urban areas. The Growth Plan envisages increasing intensification of the existing built-up area, with a focus on urban growth centres, intensification corridors, major transit station areas, brownfield sites and greyfields. Revitalization of urban growth centres is seen to be of paramount importance in accommodating additional people and jobs, as well as providing regional focal points in local communities.

The Growth Plan indicates that population and employment growth will be accommodated in the following ways:

- directing a significant portion of new growth to the *built-up areas* of the community through *intensification*;
- focusing *intensification* in *intensification areas*;
- reducing dependence on the automobile through the development of mixed-use, *transit-supportive*, pedestrian-friendly urban environments;
- providing convenient access to intra- and inter-city transit;
- planning and investing for a balance of jobs and housing in communities across the *GGH* to reduce the need for long distance commuting and to increase the *modal share* for transit, walking and cycling; and
- encouraging cities and towns to develop as *complete communities* with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space and easy access to local stores and services.

#### 4.4 *Urban Hamilton Official Plan*

##### 4.4.1 Residential Intensification

Section 2.4 of Chapter B outlines principles for “Residential Intensification”. Intensification is seen as “a key component of Hamilton’s growth strategy and is essential to meet our growth and employment targets”. Intensification is also identified as contributing to vibrant neighbourhoods, nodes and corridors and providing a wider range of housing types to meet the housing needs of Hamilton’s current and future population. A key point in this section is the following: “UHOP supports the intensification of the existing built-up area of the City, with a focus on intensification of planned Urban Nodes and Urban Corridors described in Chapter E – Urban Systems and Designations”. However, it is clearly stated that intensification must be done properly with appropriate consideration for design and compatibility with existing uses, neighbourhood character, and cultural and natural heritage.

Section 2.4.1.2 indicates that the City’s primary intensification areas shall be the Urban Nodes and Urban Corridors as illustrated on Schedule E of UHOP. Section 2.4.1.3 c) further points out that 40% of the residential intensification target is anticipated to occur within the “Neighbourhoods” land uses.



Sections 2.4.1.4 and 2.4.2.2 establish the following criteria for evaluating proposed residential intensification projects:

- the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- the development's contribution to maintaining and achieving a range of dwelling types and tenures;
- the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- the consideration of transitions in height and density to adjacent residential buildings;
- the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- the provision of amenity space and the relationship to existing patterns of private and public amenity space;

- the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- the ability to complement the existing functions of the neighbourhood;
- the conservation of cultural heritage resources; and
- infrastructure and transportation capacity and impacts.

## 4.4.2 Urban Systems and Designations (Chapter E)

Section E.1.0 sets out goals for the urban systems and land use designations of UHOP, including the following:

- a) Designate land uses to facilitate the development of a node and corridor based urban structure.
- b) Support and facilitate development and investment that contributes to the development of the overall urban structure.
- c) Develop compact, mixed use urban environments that support transit and active transportation.
- d) Develop complete communities where people can live, work, learn, and play.
- e) Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs.
- f) Promote and support design which enhances and respects the character of existing neighbourhoods and creates vibrant, dynamic, and liveable urban places.

- g) Promote and support appropriate residential intensification throughout the urban area and focused in Urban Nodes and Urban Corridors.
- h) Recognize that Hamilton's neighbourhoods are stable, not static.
- i) Protect and enhance a system of linked natural areas.
- j) Protect Hamilton's existing and planned Employment Areas.

Section 2.1 further stresses that Hamilton's urban structure shall be a node and corridor structure guided by the following general principles:

- a) Nodes and corridors are the focus of reurbanization activities (i.e. population growth, private and public redevelopment, and infrastructure investment).
- b) Nodes and corridors provide focal points of activity for Hamilton's local communities and neighbourhoods.
- c) Nodes and corridors are connected to each other and are internally served by various modes of transportation, including higher order transit.
- d) Nodes and corridors provide a vibrant pedestrian environment and facilitate active transportation through careful attention to urban design.
- e) Nodes and corridors evolve with higher residential densities and mixed use developments to achieve their planned functions and support transit.

Section 2.4.11 is important to note as it indicates that Urban Corridors, including Primary Corridors, shall be a focus for intensification through the Neighbourhoods which they traverse. However, as Section 2.4.15 points out, "new development shall respect the existing built form of adjacent neighbourhoods where appropriate by providing a gradation in building height. New development shall locate and be designed to minimize the effects of shadowing and overview on properties in adjacent neighbourhoods".

Section E3.0 outlines policies for the "Neighbourhoods" designation. The policy goals outlined in Section 3.1 include the following:

- Develop compact, mixed use, transit-supportive, and active transportation friendly neighbourhoods;
- Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs;
- Promote and support design which enhances and respects the character of existing neighbourhoods while at the same time allowing their ongoing evolution; and
- Promote and support residential intensification of appropriate scale and in appropriate locations throughout the neighbourhoods.

Section 3.2.4 indicates that "the existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential

neighbourhood.” Similarly, Section 3.3.2 stresses that “Development or redevelopment adjacent to areas of lower density shall ensure the height, massing, and arrangement of buildings and structures are compatible with existing and future uses in the surrounding area.” Thus, the importance of compatibility and mitigating adverse impacts is critically important.

#### 4.4.3 Division of Land (Chapter F)

Section 1.14 of Chapter F of UHOP provides policies for Division of Land. As outlined in Section 1.14.1, development may require subdivision of existing lots or tracts of land to occur by registered plan of subdivision where:

- a) a new road or an extension to an existing road is required; and
- b) it is deemed in the public interest for the proper and orderly development of lands.

Section 1.14.1.2 indicates that Council shall approve only those plans of subdivision that meet the following criteria:

- a) the plan of subdivision conforms to the policies and land use designations of this Plan;
- b) the plan of subdivision implements the City’s staging of development program;
- c) the plan of subdivision can be supplied with adequate services and community facilities;

- d) the plan of subdivision shall not adversely impact upon the transportation system and the natural environment;
- e) the plan of subdivision can be integrated with adjacent lands and roadways;
- f) the plan of subdivision shall not adversely impact municipal finances; and,
- g) the plan of subdivision meets all requirements of the Planning Act.

Section 1.14.3.1 includes the following criteria for permitting lot creation in the Urban Area and, more specifically, the Neighbourhoods Designation

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- e) The lots are fully serviced by municipal water and wastewater systems; and
- f) The lots have frontage on a public road.

## 4.5 Ainslie Wood Westdale Secondary Plan

### 4.5.1 Objectives

The Ainslie Wood Westdale Secondary Plan is set out in Section 6.2 of Volume 2, Chapter of UHOP. The Secondary Plan “establishes land uses, development standards and provisions regarding cultural heritage, urban design and transportation, to guide the development and/or redevelopment of lands located in the Ainslie Wood Westdale Secondary Plan area”.

The following objectives of the Secondary Plan are provided in Section 6.2.4:

- a) Provide a diversity of suitable housing choice for families, students, seniors and others.
- b) Maintain low density, single detached residential areas, in terms of both appearance and use.
- c) Ensure new infill housing and renovations are compatible with existing development.
- d) Encourage development forms which are compact, to help provide opportunities to relieve pressures for urban expansion, such as higher densities and mixed use along major roads.
- e) Provide employment choices within the area which are compatible with residential uses, allowing residents the option to live and work in close proximity.

- f) Reduce conflicts between adjacent land uses by buffering and distance separation.
- g) Retain all existing open space areas and natural areas, including significant features such as Cootes Paradise.
- h) Provide commercial areas, especially along the King Street historic community core and along portions of other major roads.
- i) Conserve cultural heritage resources, including buildings and areas of historical and architectural significance.
- j) Enhance the design and identity of the Ainslie Wood Westdale area by the addition of design features to accentuate streetscapes and gateways.
- k) Recognize McMaster University and the McMaster University Medical Centre as major community stakeholders, which help to define community identity, and contribute educational and employment opportunities.
- l) Ensure that the transportation system provides for the needs of all citizens, encourages a compact urban form and enables the use of alternative travel modes.
- m) Ensure that municipal infrastructure, such as water, sewers, storm water management facilities and public/private utilities are provided to adequately service the residents, businesses and institutions of this area.

### 4.5.2 General Residential Policies

Section 6.2.5.3 includes the General Residential Policies for the Secondary Plan Area:

- a) A range of residential designations is provided to encourage a variety of housing types, forms and sizes. Rental housing is important in providing a range of housing types.
- b) Higher residential densities are directed to major roads, namely arterial and collector roads, to new or redeveloped residential or mixed commercial/residential developments. Population densities should be reflective of average densities for similar higher density residential uses across the City.
- c) Changes to the existing housing stock, such as new infill construction and renovations, shall be comparable to existing housing styles on the same block and street. New construction shall be encouraged to reflect similar housing styles, massing, height, setbacks, and other elements of style as the adjacent homes on the same block and street. The City shall discourage the building-out of rooflines to convert dormers into a full storey. The City shall limit overbuilding on properties, to maintain compatibility within the neighbourhood.
- d) Where there is no consistent style of homes on a street or block to determine the style for infill housing, such infill or renovations shall be encouraged to be compatible with the various housing styles on that street or block, reflecting one style or a suitable combination, rather than being of a height or style not found in the area.
- e) Additional locations suitable for new higher density housing units, including units suitable for student housing, are identified at various locations and densities, to reduce the over-intensification of such housing in some residential areas. Housing forms which shall be encouraged for new rental housing and student units include

mixed use commercial / residential on major roads, low rise apartments, medium rise apartments, and rental rooms in owner-occupied houses.

- f) Property standards measures are recognized as important in the preservation of residential character.

g) The heritage character associated with the Ainslie Wood Westdale residential areas shall be preserved and enhanced by a number of means, as outlined in Section B.6.2.12 – Urban Design Policies and B.6.2.13 – Cultural Heritage Policies of this Secondary Plan, including:

- i) retention of buildings and areas which have been designated or listed as having historical or architectural significance; and
- ii) recognition of cultural heritage landscapes. The three Cultural Heritage Landscapes identified on Map B.6.2-2 - Ainslie Wood Westdale Cultural Heritage Landscapes are: 1. The planned suburb of Westdale, commercial core and residential; 2. The Veteran's Housing Area, a post-war housing area south of Main; and, 3. The Burke Survey, an early 20th century survey.

h) Other complementary uses to be permitted in the Residential designations, in addition to those specified for each density type, shall include home businesses, accessory uses, home day care, small residential care facilities, and small scale local commercial and small community-based places of worship.

#### 4.5.3 Low Density Residential

Section 6.2.5.4 includes the following applicable policies for the Low Density Residential Designation:

- Low Density Residential 2 areas permit single detached dwellings, semidetached dwellings, duplexes, and street townhouses. These uses shall include dwellings with accessory apartments/second dwelling units. Single detached housing shall be the primary form of housing in most of these areas, especially in the interior of neighbourhoods. Existing, legal 3, 4, and 5-plexes shall be recognized as permitted uses.
- Notwithstanding Policy E.3.4.4 of Volume 1, the Low Density Residential 2 densities shall generally be from 10 – 29 units per gross hectare. The area of large lots noted in Policy B.6.2.5.3 d) – General Residential Policies of Volume 2 shall have a lower density.
- Where single detached housing presently exists in the interior of the neighbourhood, the maintenance of such low density housing shall be preferable to new higher density housing forms.

#### 4.6 City of Hamilton Zoning By-Law 6593

As outlined in Section 1.5 of Chapter F of the Urban Hamilton Official Plan, the Zoning By-law is one of the key implementation tools to “ensure the City’s goals, objectives and policies of this Plan are realized”. This is done through regulations on permitted uses and associated performance standards, setbacks, lot areas, height, landscaping and parking requirements.

This report previously confirmed that the prevailing zoning on the subject property is *Urban Protected Residential (C/S-1335)* under Zoning By-Law 6593. The zoning regulations are a combination of Zoning By-Law 6593 and By-Laws 95-02 and 95-033, including the following:

- Minimum Lot Width: 12 metres
- Minimum Lot Area: 360 m<sup>2</sup>
- Maximum Floor Area Ratio: 0.45
- Minimum Front Yard: 6 metres
- Minimum Side Yard: 1.2 metres
- Minimum Rear Yard: 7.5 metres
- Maximum Building Height: 2 storeys, 9.0 metres

The permitted residential uses include the following:



- A single family dwelling, together with the accommodation of lodgers to the number of not more than three;
- A foster home;
- A residential care facility for the accommodation of not more than 6 residents; and
- Retirement home for the accommodation of not more than six residents.

## 5. Land Use Planning Analysis

### 5.1 *Ontario Planning Act*

#### 5.1.1 Application for Consent

It is my opinion that the requested consent will facilitate proper and orderly development of the subject property. Moreover, the consent application is consistent with the matters outlined in Section 51(24) of the Planning Act, on the basis of the following:

- The consent is not premature in that the application would establish a lot pattern consistent with the surrounding community (in terms of lot width, depth and area) and would make more efficient use of existing municipal services and infrastructure, including transit and sidewalks;
- As outlined in later sections of this report, the consent conforms to the Urban Hamilton Official Plan and Ainslie Wood Westdale Secondary Plan;

- The lots will be serviced by a municipal collector road that is fully maintained by the City of Hamilton with transit routes and stops in immediate proximity;
- There are no natural hazards or natural environment or agricultural resources that would be impacted by the proposed consent;
- The proposal will increase the availability of housing in the community in a manner that is consistent and compatible with the existing character; and
- The consent is a reasonable residential intensification in the existing urban area that will make more efficient use of municipal services and infrastructure, including transit and pedestrian facilities.

#### 5.1.2 Application for Minor Variance

The requested minor variances are required to facilitate the consent and to permit construction of a two-storey single detached dwelling consistent in character with other two-storey dwellings in the community. In addition to my opinion that the consent is consistent with the applicable matters under the Planning Act, the following sections of this Land Use Planning Analysis will outline my opinion that the four tests set out in the Planning Act for evaluating applications for Minor Variance are also satisfied through the development proposal.

## 5.2 Provincial Policy Statement

### 5.2.1 Application for Consent

It is my opinion that the application for consent is consistent with the applicable provisions of the Provincial Policy Statement on the following basis:

- The proposal provides for accommodation of residential population growth inside the existing urban boundary and built-up area;
- The low density residential lot configuration is compatible and consistent with the character of the adjacent community and represents a reasonable intensification of the subject property;
- The development will make more efficient use of existing serviced land and municipal infrastructure without adverse impacts to the quality of life and built form in the community;
- No public investment is required in municipal services or infrastructure;
- The proposal will contribute to the financial well-being of the City by increasing the property tax levy on the property and generating payment of development charges, planning application fees and building permit fees; and

- The development will assist the City of Hamilton in achieving its goals for growth and intensification under Places to Grow and UHOP.

### 5.2.2 Application for Minor Variance

#### Variances for Minimum Lot Width and Minimum Lot Area

The minor variance application includes three requested variances. Two of these variances (minimum lot width and minimum lot area) are required to establish the proposed lot pattern. As indicated in section 5.2.1 of this report, it is my opinion that the proposed lots are consistent with the PPS. On this basis, the minor variances for minimum lot width and minimum lot area are also consistent with the PPS as they will allow for establishment of a lot configuration that is consistent and compatible with the surrounding area while also facilitating more efficient use of the subject property than other existing conditions. The proposed lots will also have direct access to existing municipal services and infrastructure and no upgrades or extensions are required.

#### Variance for Maximum Floor Area Ratio

The third minor variance is to allow floor area ratio greater than 0.45. This regulation was established in 1995 to protect the character of the neighbourhood and does not reflect the residential intensification policies of the PPS and Urban Hamilton Official Plan. The minor variance to maximum floor area ratio will allow

construction of single detached dwellings that are consistent with adjacent existing two-storey dwellings and compatible with the smaller one and 1.5-storey dwellings in the surrounding area. The proposed dwellings will make more efficient use of the subject property, increase property tax revenue to the City and increase the number of people living in the community without requiring any municipal investment or upgrades/extensions to existing infrastructure. On this basis, it is our opinion that this minor variance is consistent with the applicable PPS policies.

### **5.3 Growth Plan for the Greater Golden Horseshoe**

#### **5.3.1 Application for Consent**

It is my opinion that the development proposal and application for consent are consistent with the policies of the Growth Plan, on the following basis:

- 
- The proposed development represents reasonable and compatible growth within the existing built-up area of Hamilton;
- The proposed lots will make more efficient use of existing residential land through intensified use that is also consistent and compatible with the surrounding area;
- The development will make use of existing municipal infrastructure and not require public investment; and

- The development will aid the City in striving for the population targets set out under Places to Grow and UHOP by bringing more residents to the community.

#### **5.3.2 Application for Minor Variance**

##### Variances for Minimum Lot Width and Minimum Lot Area

The minor variances for minimum lot width and minimum lot area will facilitate the consent application to establish land use and a lot pattern that is consistent with the objectives and policies of the Growth Plan. On this basis, it is my opinion that these minor variances are consistent with the Growth Plan.

##### Variance for Maximum Floor Area Ratio

The minor variance for maximum floor area ratio has been requested to permit construction of a single detached dwelling that is consistent with a number of existing homes in the community and also compatible with other smaller homes in the area. The requested floor area ratio of 0.82 translates into a two-storey dwelling of 225 m<sup>2</sup>, or just over 2,400 ft<sup>2</sup>. This request will allow for construction of dwellings that are reflective of current market demands but also respective of the existing character of the neighbourhood. The dwellings represent more intense use of the subject property than existing, but also maintain the existing neighbourhood character and do not require investment in upgrades or extensions to municipal infrastructure. Therefore, it is

my opinion that this minor variance is consistent with the Growth Plan.

#### 5.4 *Urban Hamilton Official Plan*

##### 5.4.1 Residential Intensification

###### Consent Application

It is my opinion that the consent application conforms to the UHOP Residential Intensification policies on the following basis:

- The consent will result in one additional single detached dwelling lot in the community and will be similar in width and area to other lots in the area;
- The subject property is located on a collector road as identified on Schedule E and is thus an appropriate location for intensification;
- While more intense than existing, the proposed lots will be consistent and compatible with the existing lot pattern in the community and represent orderly development of the subject lands;
- The intensified land use pattern will support the targets for increased residential density in Neighbourhoods designations;
- The proposed lots will be for single detached dwellings similar in character to others in the neighbourhood and,

consequently, would not result in adverse impacts related to shadow, overlook, noise, lighting, traffic and other nuisances; and

- The subject property is located on the corner of the Whitney/Leland intersection and in close proximity to existing transit service; this location also minimizes the number of existing lots that will be directly affected by the consent.

###### Variances for Minimum Lot Width and Minimum Lot Area

The requested minor variances for minimum lot width and minimum lot area are required to establish a lot pattern that would conform to the residential intensification policies of UHOP. As a result, it is my opinion that these minor variances also conform to these UHOP policies.

###### Variance for Maximum Floor Area Ratio

The variance for maximum floor area ratio is required to construct single detached dwellings consistent with the character of existing two-storey dwellings immediately adjacent to the subject property. Maximum floor area ratio regulations are intended to ensure a dwelling is not constructed that is too large for a particular lot size. However, this report has identified that many existing properties significantly exceed the maximum floor area ratio regulations of the Zoning By-Law. Thus, it is more appropriate to consider whether exceeding the maximum floor area ratio would adversely impact

the quality and character of the neighbourhood. Given that the neighbourhood is characterized by bungalows, 1.5-storey and 2-storey dwellings under current conditions, the proposed dwellings would be compatible with existing character of the community. In addition, the following points confirm that the variance for maximum floor ratio conforms to the UHOP residential intensification policies:

- The requested floor area ratio is consistent with other 2-storey dwellings in the neighbourhood;
- Required building height and setbacks will be provided to minimize impacts to adjacent properties and to provide appropriate outdoor amenity spaces;
- The increased floor area ratio would not trigger additional investment in upgrades or extensions of municipal services or infrastructure;
- Given the location of the subject property as a corner lot, a minimal number of lots would be affected by the increased floor area ratio; and
- The additional floor area ratio represents intensification of residential land use on a collector road in a manner that is consistent and compatible with the surrounding community.

#### 5.4.2 Urban Systems and Designations

##### Consent Application

It is my opinion that the consent application conforms to the applicable Urban Systems and Designations policies of UHOP on the following basis:

- The proposal will increase residential density in the community, which will support intensification objectives as well as objectives for transit and active transportation;
- The proposed lot configuration is consistent with that of the surrounding area;
- The proposal is located on a collector road identified as an appropriate location for residential intensification; and
- The consent will establish a lot pattern and also facilitate construction of single detached dwellings that are consistent and compatible with the existing neighbourhood character.

##### Variances for Minimum Lot Width and Minimum Lot Area

Granting the requested minor variances for minimum lot width and minimum lot area will permit a lot pattern that is consistent with that of the surrounding area while also facilitating reasonable residential intensification. On this basis, it is my opinion that these

variances conform to the Urban Systems and Designations policies of UHOP.

#### Variance for Maximum Floor Area Ratio

The requested minor variance for maximum floor area ratio is intended to allow construction of two two-storey single detached dwellings that are similar in floor area and scale to the existing two-storey dwellings that are immediately adjacent to the subject property. While there are also smaller one and 1.5-storey dwellings in the neighbourhood, this diversity represents the built form character of the community. Given that the proposed dwellings will be adjacent to the Whitney/Leland intersection and immediately adjacent to other two-storey dwellings, the impact of the increased floor area on the subject property on the surrounding land uses will be minimized. The increased floor area represents an increase in land use intensity but not a use that is out of character for the area. On this basis, it is my opinion that the variance for maximum floor area ratio conforms to the Urban Systems and Designations policies of UHOP.

#### 5.4.3 Division of Land

It is my opinion that the consent and minor variance applications conform to the UHOP Division of Land policies on the following basis:

- A plan of subdivision is not required for properly and orderly development of the lands and a new road or extension is not required for the proposal;
- While a plan of subdivision is not required, the proposal still satisfies the criteria of Section 1.14.1.2 in that the applications conform to the applicable policies of UHOP, municipal services and infrastructure are available, no impacts would occur to municipal finances and the section 51(24) requirements of the Planning Act are satisfied;
- The proposed lots conform to the other applicable UHOP policies;
- Minor variances have been requested for the proposed lot width and lot area;
- The proposed lot are consistent with the character of the existing neighbourhood; and
- The lots are serviced and have frontage on a collector road.

### 5.5 *Ainslie Wood Westdale Secondary Plan*

#### 5.5.1 Objectives

#### Consent Application

It is my opinion that the consent application for the subject property conforms to the objectives of the Secondary Plan by:



- Increasing the residential density in the Plan area while maintaining the low density, single detached character;
- Creating lots that are consistent and compatible with the existing lot pattern;
- Providing more compact urban form that supports transit and pedestrian modes of transportation; and
- Creating lots that can be readily connected to available municipal services without requiring any infrastructure upgrades or extensions.

#### Variances for Minimum Lot Width and Minimum Lot Area

The requested minor variances for minimum lot width and minimum lot area conform to the Secondary Plan in that they will facilitate the creation of lots that increase residential density and intensity but that are also consistent with the lot pattern in the community. These lots will allow construction of enhanced low density residential built form that is consistent and compatible with the existing community.

#### Variance for Maximum Floor Area Ratio

The requested minor variance for maximum floor area will allow for construction of two single detached dwellings that are consistent with the built form of the adjacent two-storey dwellings and also compatible with the character of the area. The Secondary Plan envisions residential intensification in a manner that is compatible with the surrounding area. The minor variance will permit single

detached dwelling built form in a manner that makes more efficient use of the subject property and will result in incremental property tax increases without requiring municipal investment in infrastructure.

#### 5.5.2 General Residential Policies

##### Consent Application

The consent application conforms to the General Residential Policies of the Secondary Plan by:

- Facilitating a greater range of low density housing types and sizes in the community;
- Increasing the density of residential development along a *collector* road; and
- Creating lots similar in width and area to the existing lot pattern and that will facilitate construction of two-storey dwellings that are comparable to existing houses on the street.

#### Variances for Minimum Lot Width and Minimum Lot Area

The requested variances for minimum lot width and minimum lot area facilitate creation of lots that are consistent with the neighbourhood lot pattern. While these variances result in higher density residential use relative to existing conditions, the lots will

be compatible with the area and facilitate new development that conforms to the General Residential Policies.

#### Variance for Maximum Floor Area Ratio

The requested variance for maximum floor area ratio will help to achieve a greater variety of housing form and sizes by permitting a greater ratio of floor area to lot area. This will also lead to greater residential density and intensity, which is appropriate given the location of the subject property on a collector road and in close proximity to transit and pedestrian infrastructure. As already noted in this report, the requested floor area ratio of 0.82 is comparable to other two-storey dwellings in the immediate vicinity. The result is that the proposed dwellings would be similar in character to the existing built form in the community. Moreover, since there is a variety of housing forms in the area, rather than one consistent style, the proposed floor area ratio will be compatible with the overall neighbourhood character.

### 5.5.3 Low Density Residential Policies

#### Consent Application

It is clear that the Secondary Plan aims to increase intensity and density of low density residential development in the Plan area. The consent application conforms to the Low Density Residential Policies of the Secondary Plan by facilitating single detached residential development in a higher density form that is consistent

and compatible with the existing community in terms of lot area, width and configuration.

#### Variances for Minimum Lot Width and Minimum Lot Area

The requested variances for minimum lot width and minimum lot area facilitate creation of lots that provide increased residential density but remain consistent and compatible with the neighbourhood lot pattern. Therefore, the objectives of increased density are satisfied while minimizing adverse impacts to the quality and character of the community.

#### Variance for Maximum Floor Area Ratio

The requested variance for maximum floor area ratio will increase the variety and intensity of residential built form in the community in a manner consistent with existing dwellings in the immediate vicinity. The community is characterized by a range of building types and sizes, and the proposed maximum floor area ratio would represent the high end of the existing range. Moreover, the proposed floor area represents a balance between the single detached character of the community and the Secondary Plan objectives related to higher density uses including semi-detached dwellings, duplexes and townhouses.

## 5.6 City of Hamilton Zoning By-Law 6593

It is my opinion that the prevailing zoning regulations do not effectively implement the policies of the Urban Hamilton Official Plan and Ainslie Wood Westdale Secondary Plan. The regulations are also not consistent with the policies of the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe.

Many of the existing lots in the community surrounding the subject property are smaller in width and area than permitted under the regulations. Similarly, a number of existing dwellings immediately adjacent to the subject property exceed the maximum floor area ratio permissions. Thus, the prevailing zoning regulations effectively require new lots to be larger than many existing and new dwellings to be smaller than many of the existing dwellings. This situation is not only counter to the existing character of the community, but also the Provincial, UHOP and Secondary Plan residential intensification policies. As a result, the opportunities for residential intensification promoted under these policy documents are limited.

In other words, the Zoning By-Law is out of touch with the objectives and policies of UHOP and the Secondary Plan as they relate to residential intensification. That being said, the proposal for the subject property seeks to comply with the prevailing zoning regulations where possible, seeking only relief on three regulations. However, it is our opinion that these variances do not result in issues of incompatibility or overdevelopment.

The requested variances for Minimum Lot Width and Minimum Lot Area serve to establish lots that are similar in width and area to many of the lots in the immediate area. The requested variance for Maximum Floor Area Ratio will allow construction of a two-storey dwelling that complies with all other regulations, including building height and front, rear and side yard setbacks.

In granting the consent and minor variance applications, the Committee of Adjustment would effectively be updating the zoning permissions for the subject property in a manner that more effectively implements the UHOP and Secondary Plan. On this basis, the minor variances would conform to the purpose and intent of the Official Plan and Zoning By-Law.

## 6. Conclusions

### 6.1 Application for Consent

It is my opinion that the consent application should be approved on the following basis:

- The consent is consistent with the matters identified under 53(12) of the Ontario Planning Act as they relate to granting of consents;

- The consent is consistent with the Provincial policies for residential intensification established in the Provincial Policy Statement and Places to Grow Growth Plan;
- The consent conforms to the policies of the Urban Hamilton Official Plan, including the criteria for Land Division; and
- The consent conforms to the policies of the Ainslie Wood Westdale Secondary Plan.

## 6.2 *Application for Minor Variance*

### 6.2.1 Minor Variances for Minimum Lot Width and Minimum Lot Area

It is my opinion that the requested variances for minimum lot width and minimum lot width will facilitate creation of residential lots that are consistent and compatible with the community and represent reasonable residential intensification. Moreover, these variances should be granted on the following basis:

- The variances conform to the general purpose and intent of the Urban Hamilton Official Plan and Ainslie Wood Westdale Secondary Plan;
- The variances conform to the general purpose and intent of the City of Hamilton Zoning By-Law 6593;
- The variances are desirable and appropriate for development and use of the subject lands; and
- The variances are minor in nature.

### 6.2.2 Minor Variance for Maximum Floor Area Ratio

It is my opinion that the requested variance for maximum floor area ratio will allow construction of single detached dwellings that enhance the quality of built form in the community in a manner that is consistent and compatible with the existing dwellings. Moreover, these variances should be granted on the following basis:

- The variance conforms to the general purpose and intent of the Urban Hamilton Official Plan and Ainslie Wood Westdale Secondary Plan;
- The variance conforms to the general purpose and intent of the City of Hamilton Zoning By-Law 6593;
- The variance is desirable and appropriate for development and use of the subject lands; and
- The variance is minor in nature.

Regards,



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