




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 6, 2021
SUBJECT/REPORT NO:	Demolition Permit – 202 Cannon Street East, Hamilton (PED21127) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Frank Peter (905) 546-2424 Ext. 2781
SUBMITTED BY:	Ed VanderWindt Director, Building and Chief Building Official Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Chief Building Official be authorized to issue a demolition permit for 202 Cannon Street East, Hamilton in accordance with By-law 09-208, as amended by By-law 13-185, pursuant to Section 33 of *The Planning Act*, subject to the following conditions:

- (a) That the applicant has applied for and received a building permit for a replacement building on this property;
- (b) That the said building permit specifies that if the replacement building is not erected within two years of the demolition of the existing building on the property, the City be paid the sum of \$20,000 which sum:
 - (i) the City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes;
 - (ii) is a lien or charge on the property until paid; and,
- (c) That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions in a form satisfactory to the Chief Building Official and the City Solicitor.

EXECUTIVE SUMMARY

The owner of the property is seeking approval, through a demolition permit, for the demolition of the existing mixed-use commercial and residential building in order to construct a 3.5 storey multiple dwelling containing 16 rental dwelling units. The Building Division records indicates that there are 2 dwelling units located in the building while the owner of the property has indicated there are 6 dwelling units in the building. The additional 4 dwelling units were created without the benefit of a building permit.

A Site Plan Application, DA-20-040, was conditionally approved on March 12, 2021 for the development of the multiple dwelling. The owner is currently working on fulfilling all the conditions imposed on the approval. While the conditions are being fulfilled the owner is seeking permission to demolish the existing building in order to be prepared to start construction as soon as the Site Plan Application conditions have been completed and the building permit application requirements have been satisfied.

Under Section 4 of the Demolition Control By-law 09-208 the Chief Building Official has the delegated authority to issue demolition permits for residential properties that are deemed “routine applications”, in accordance with the by-law. The Chief Building Official evaluated this proposed demolition to determine if the request complies with any of the “routine application” provisions of the Demolition Control By-law. One of the “routine application” provisions of the by-law permits the Chief Building Official to issue a demolition permit where there is a fully approved Site Plan Application. As this project has only received conditional Site Plan Approval and not full Site Plan Approval, it does not fall under the delegation of authority requirements and a demolition permit cannot be issued under this provision.

Therefore, this application has been deemed a “routine application” as this property is in an established neighbourhood and the current zoning permits a replacement residential building. As a result, the standard conditions required to be registered on title that would require a building permit to be issued in conjunction with the demolition permit and the replacement building to be substantially completed within two years of the date of the demolition would apply in accordance with the By-law. A building permit cannot be issued until the Site Plan Application has been fully approved, as noted above.

However, where the owner of the property does not agree with the conditions being imposed, Section 7 of the By-law requires the Chief Building Official to advise Council. Council then retains all power to: issue, including imposing the standard rebuild condition; issue without conditions or refuse to issue the demolition permit.

This Report is presented to Council as the owners are not in agreement with the recommended conditions as set out in the Demolition Control By-law.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not Applicable.

Staffing: Not Applicable.

Legal: Not Applicable.

HISTORICAL BACKGROUND

PRESENT ZONING: Downtown Residential D5 Holding H17, H19 & H20 Zone (Zoning By-law 05-200).

PRESENT USE: Mixed Use Commercial and 6 Rental Dwelling Units.

PROPOSED USE: 16 Unit Multiple Dwelling (rental).

BRIEF DESCRIPTION: This property is located at the southwest corner of Cannon Street East and Cathcart Street. It is a 2-storey building which also includes the properties known as 79 & 81 Cathcart Street. The Building Division records indicate there are only 2 dwelling units legally recognized. The owner has indicated that there are 6 rental dwelling units. Four units have been created without the benefit of a building permit. According to google maps, the additional dwelling units appear to be known as 83 & 85 Cathcart Street and 200 & 200A Cannon Street East. Although the building appears to be in a deteriorated condition nothing has been submitted to the Building Division declaring the building to be unsafe. Additionally, City Council removed this property from the Municipal Heritage Registry on April 14, 2021.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The subject lands are designated “Downtown Mixed Use Area” on Schedule E-1 of the Urban Hamilton Official Plan, and “Downtown Residential” in the Downtown Hamilton Secondary Plan.

Policy 6.1.4.11 of the Downtown Hamilton Secondary Plan addresses the demolition of rental housing units:

“6.1.4.11 Notwithstanding Policy B.3.2.5.6 of Volume 1, the demolition/redevelopment of rental housing units shall be permitted only where the following can be achieved to offset the impacts: a) it shall be demonstrated that the rental housing units have been replaced on-site; and, b) an acceptable tenant relocation and assistance plan addressing the right to return to occupy the replacement housing at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen the hardship, is provided.”

Staff note that Site Plan application DA-20-040 for the development of a 3.5 storey multiple dwelling containing 16 dwelling units has received conditional approval. The development of the 16 dwelling units, which are proposed as rental units, will replace the units already on site, satisfying criteria (a) of the policy above. The applicant has indicated the intention for the replacement units to remain as rental units in the future.

The existing units have been vacant since 2020. Criteria (b) of the policy above does not apply.

Therefore, the proposed demolition complies with Policy 6.1.4.11 of the Downtown Hamilton Secondary Plan.

RELEVANT CONSULTATION

The Policy Planning Section of the Planning and Economic Development Department was consulted on the proposed demolition and the comments provided in the Policy Implications and Legislated Requirements section have been provided by that Section.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As previously noted above, it is recommended that the application be approved as the demolition of the rental dwelling units complies with Policy 6.1.4.11 in the Downtown Hamilton Secondary Plan. The existing units on site will be replaced with the development of 16 rental dwelling units in accordance with conditionally approved Site Plan DA-20-040.

ALTERNATIVES FOR CONSIDERATION

Should the Committee wish to approve the demolition without imposing the conditions for a replacement dwelling, then the following recommendation may be appropriate:

That the Chief Building Official be authorized to issue a demolition permit for 202 Cannon Street East, Hamilton, in accordance with By-law 09-208, as amended by By-

law 13-185, pursuant to Section 33 of *The Planning Act* as amended, without having to comply with conditions 6(a), (b), and (c) of the Demolition Control By-law 09-208.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

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

Healthy and Safe Communities

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

Built Environment and Infrastructure

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED21127 – Location Map

FP:II