

Daniel B. Artenosi
Partner
Direct 416-730-0320
Cell 416-669-4366
dartenosi@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca



August 31, 2022

VIA EMAIL

Mayor Fred Eisenberger and Members of City of Hamilton Council
City of Hamilton
71 Main St. W., 1st Floor
Hamilton, Ontario, Canada L8P 4Y5

Attention: Lisa Kelsey, Clerk, Planning Committee

Your Worship and Members of Council,

**RE: 386 Wilcox Street
Request to Planning Committee and City Council
September 6, 2022 Planning Committee Meeting
Application No. HM/B-21:97
Exemption from By-laws 06-26 & R84-026**

We are legal counsel to Slate HWF L.P. ("**Slate**"), being the owner of the property municipally known as 386 Wilcox Street in the City of Hamilton (the "**Subject Property**"). The Subject Property is more commonly known as the site of the Stelco operations in Hamilton. Slate purchased the Subject Property from Stelco Inc. ("**Stelco**") on June 1, 2022.

On behalf of our client, we are writing to request that City Council enact an amendment to By-law No. 06-26, as amended, and By-law No. R84-026, as amended, to permit an exemption to Section 5(6)-(9) of By-law No. 06-26 and similar applicable sections of By-law R84-026 for the Subject Property.

By way of background, on October 21, 2021, MacNaughton Hermsen Britton Clarkson Planning Limited filed the following two applications for consent under Section 53 of the Planning Act, R.S.O. 1990, c.P.13, as amended (the "**Planning Act**") with the City of Hamilton Committee of Adjustment:

1. an application for consent to create a new parcel within the Subject Lands (hereinafter referred to as the "**Long Term Lease Lands**") to permit a long-term lease in excess of 21 years (the "**Long-Term Lease**") between Slate, as the new owner of the Subject Property, and Stelco, as the future tenant of said parcel; and,
2. an application for consent to permit the severance and conveyance of the Long Term Lease Lands, which would be used for ongoing manufacturing industrial use by Stelco,

and to retain the balance of the Subject Property (the “**Development Lands**”) to be developed for new industrial and other employment uses (the “**Severance**”),

(collectively, the “**Consent Applications**”).

The Consent Applications were considered and approved, subject to conditions, by the Committee of Adjustment on November 25, 2021. Written notices of decision were issued by the Committee of Adjustment on December 2, 2021 (collectively, the “**Decisions**”). In accordance with the Planning Act, final consents are granted once all conditions of approval have been satisfied.

In accordance with Section 53(19) of the Planning Act, the Decisions were subject to an appeal period of 20 days following written notice of the Decisions. In both instances, the appeal period expired on December 23, 2021. There were no appeals filed in respect of the Decisions and the Decisions approving the provisional consents are now final and binding.

Conditions to Severance

The conditions imposed to the consent approving the Long Term Lease have been satisfied and the final consent has been given in accordance with the *Planning Act*.

The Decision approving the Severance imposed 11 conditions that are to be satisfied before final consent to sever is given (the “**Severance Conditions**”). Slate and its consultant team are actively working to complete the matters required to satisfy the Severance Conditions.

Condition No. 2 requires that the owner apply for and receive final approval of a zoning by-law amendment to add an (H) holding provision (the “**Holding Provision**”) on the Development Lands. An application for a zoning by-law amendment to add the Holding Provision on the Development Lands was filed on December 14, 2021. The zoning by-law amendment was approved by City Council at its meeting on April 13, 2022, and a Notice of Decision was issued on April 26, 2022. The appeal period has since expired and the zoning by-law amendment and the Holding Provision as it applies to the Development Parcel is now in full force and effect. The Holding Provision was developed through an iterative process with City Staff, in order to ensure that all aspects of master planning for the Development Lands, including as it pertains to matters of servicing, are satisfied before development proceeds on these Lands.

Condition No. 10 requires the following:

“That the owner enters into and register on title a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.”

Our client was recently advised by City Staff that a joint use agreement will be required to permit an interim servicing arrangement where the Development Lands and Long-Term Lease Lands are jointly serviced by the same lateral connection to the existing municipal services. These joint connections already exist and currently service the Development Lands and the Long Term Lease Lands. No new connections will be constructed. However, given that the Severance will result in the creation of a new lot, and as a result of historical joint servicing connections approved by the

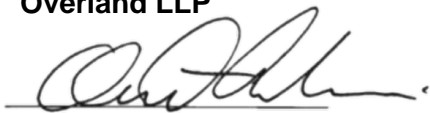
City for the Subject Lands and neighbouring properties, Staff has advised that an exemption to Section 5(6)-(9) of By-law 06-026, as amended, is required for sanitary servicing and possibly storm servicing, and an exemption to similar provisions in By-law R84-026, as amended, may be required for water.

We note that this interpretation of Condition 10 was only recently raised by Staff. At the direction of Staff, our client is filing the within request for an exemption to the By-laws and provisions noted above. Following our discussions with City Staff, it is our understanding that should the Planning Committee endorse this request, City Staff will work with Slate to develop the proposed by-law amendment, including with reference to specific by-law provisions as may be necessary, for consideration of the Public Works Committee and City Council.

The timing to satisfy the Conditions and effect the Severance is critical to our client. We are requesting that this matter and the implementing By-law amendments be considered by the Planning Committee at its upcoming meeting on September 6, 2022, so that it may ultimately proceed for consideration by City Council in September 2022, before the impending municipal election.

Should you have any questions in respect of this request, please do not hesitate to contact the undersigned, or in his absence, Natalie Ast (nast@overlandllp.ca).

Yours truly,
Overland LLP



Per: Daniel B. Arsenosi
Partner

Encl.
c. Patrick MacDonald, City Solicitor



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424
ext. 4221, 3935
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT\LAND SEVERANCE

APPLICATION NO. HM/B-21:97
SUBMISSION NO. B-97/21

APPLICATION NUMBER: HM/B-21:97

SUBJECT PROPERTY: 386 Wilcox St., Hamilton

APPLICANT(S): Owner Stelco Inc. c/o Paul Simon
Applicant MHBC Planning c/o Dana Anderson

PURPOSE OF APPLICATION: To create a new parcel for long-term lease purposes in excess of 21 years. The severed lands will be used for steel manufacturing operations.

Severed lands:
182.94m[±] x 1,007.08m[±] and an area of 31.78 per ha[±]

Retained lands:
840.18m[±] x 2,233.21m[±] and an area of 287.12 per ha[±]

This application will be heard in conjunction with Application No. HM/B-21:98.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED**, for the following reasons:

1. The proposal does not conflict with the intent of the Urban Hamilton Official Plan.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)

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SECRETARY - TREASURER

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2. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
3. That the owner register on the title of the lands an adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of, and if required by, the Manager of Engineering Approvals.
4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
5. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

DATED AT HAMILTON this 25th day of November, 2021.

D. Smith (Chairman)

M. Dudzic

B. Charters

M. Switzer

D. Serwatak

N. Mleczko

M. Smith

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 2, 2021.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 2, 2022) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS December 22, 2021

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

"**Caution:** Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499)."



Committee of Adjustment
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COMMITTEE OF ADJUSTMENT
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APPLICATION NUMBER: HM/B-21:98

SUBJECT PROPERTY: 386 Wilcox St., Hamilton

APPLICANT(S): Owner Stelco Inc. c/o Paul Simon
Applicant MHBC Planning c/o Dana Anderson

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land for a manufacturing industrial use and to retain a parcel of land for industrial and employment uses.

Severed lands:
189.94m[±] x 1,007.08m[±] and an area of 31.78 per ha[±]

Retained lands:
840.18m[±] x 2,233.21m[±] and an area of 287.12 per ha[±]

This application will be heard in conjunction with Application No. HM/B-21:97.

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2. The Committee considers the proposal to be in keeping with development in the area.
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4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)

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SECRETARY - TREASURER

2. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:
 - a. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule "A" – Zoning Maps and municipally known as 386 Wilcox Street, development shall be restricted in accordance with the following:
 - i. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the M5, 433 Zone. Additions and alterations to existing buildings may be increased by a maximum of 5%.
 - ii. Conditions for Holding Provision Removal
The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following conditions have been satisfied:
 1. The owner submitting and implement a Concept Plan for the retained lands to the satisfaction of the Director of Planning. The Concept Plan shall include guidance on:
 - a. Precincts and the distribution of land uses and buildings within each precinct;
 - b. Road and rail network; and
 - c. Phasing.
 2. The owner submitting, receiving approval and implementation of a Site Servicing Strategy for the retained lands to the satisfaction of the Senior Director of Growth Management.
 3. The owner submitting, receiving approval and implementation of an Implementation Strategy to illustrate how the Concept Plan and Site Servicing Strategy may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Senior Director of Growth Management.
3. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).
4. The applicant shall provide confirmation of the existing uses on the lands to be retained in order to determine compliance with the permitted uses of the "M5, E433" Zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
5. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.

6. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
7. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
9. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
10. That the owner enters into and register on title a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.
11. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Notes:

1. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained will remain as **386 Wilcox Street, Hamilton**, and the lands to be conveyed will be assigned the address of **1055 Industrial Drive, Hamilton**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

2. "Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499)."

DATED AT HAMILTON this 25th day of November, 2021.

D. Smith (Chairman)

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OF THIS NOTICE OF DECISION (December 2, 2022) OR THE APPLICATION SHALL BE
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NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND
TRIBUNAL (OLT) MAY BE FILED IS December 22, 2021

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

IMPORTANT INFORMATION FOR CONSENTS

THE LAST DATE OF APPEAL IS:

December 22, 2021

THIS DECISION IS NOT FINAL AND BINDING AND MUST NOT BE ACTED UPON UNTIL THE PERIOD OF APPEAL HAS EXPIRED.

THE DECISION DOES NOT RELEASE ANY PERSONS FROM THE NECESSITY OF OBSERVING THE REQUIREMENTS OF BUILDING REGULATIONS, THE LICENSE BY-LAW, OR ANY OTHER BY-LAW OF THE CITY OF HAMILTON.

Appeal

53(19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee charged by the Tribunal. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (6); 2017, c. 23, Sched. 5, ss. 80, 81; 2021, c. 4, Sched. 6, s. 80 (1).

No appeal

53(21) If no appeal is filed under subsection (19) or (27), subject to subsection (23), the decision of the council or the Minister, as the case may be, to give or refuse to give a provisional consent is final. *Planning Act, R.S.O. 1990*

Where delegation

53(44) If a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents, any reference in this section to the clerk of the municipality shall be deemed to be a reference to the secretary-treasurer of the land division committee or committee of adjustment. *Planning Act, R.S.O. 1990*

APPEALS MAY BE FILED:

1. BY MAIL/COURIER ONLY
 - 1.1 Appeal package delivered to City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5.
 - MUST BE RECEIVED BY THE END OF BUSINESS ON THE LAST DAY OF APPEAL AS NOTED ABOVE
 - 1.2 Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.
 - 1.3 Appeal package must include all of the following:
 - Notice of appeal, setting out the objection to the decision and the reasons in support of the objection;
 - Ontario Land Tribunal (OLT) appeal form, this can be found by contacting Committee of Adjustment staff at cofa@hamilton.ca or at the OLT website <https://olt.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/>;
 - Filing fee, the fee is currently \$400 (subject to change) and must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance;
 - All other information as required by the Appeal Form.
2. BY EMAIL AND MAIL/COURIER
 - 2.1 Electronic appeal package must be delivered by email to cofa@hamilton.ca.
 - MUST BE RECEIVED BY THE END OF BUSINESS ON THE LAST DAY OF APPEAL AS NOTED ABOVE
 - 2.2 Physical appeal package must be delivered by mail to City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5.
 - 2.3 Electronic appeal package must contain:
 - a copy of the notice of appeal;
 - a copy of the OLT appeal form;
 - a copy of the certified cheque or money order.
 - 2.4 Physical appeal package must contain all information as noted in Section 1.3

Questions or Information:

Contact Committee of Adjustment Staff (cofa@hamilton.ca)