

## **NOTICE OF PUBLIC HEARING** **Consent/Land Severance**

**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>B-25:009</b> | <b>SUBJECT PROPERTY:</b> | 879 West 5th Street, Hamilton |
|-------------------------|-----------------|--------------------------|-------------------------------|

**APPLICANTS:** Owner: Richard Lewis Smith, Valentina Marita Benacquista  
Applicant: Muraca Group c/o Peter Muraca  
Agent: A.J. Clarke & Associates Ltd. c/o Franz Kloibhofer & James Thomas

**PURPOSE & EFFECT:** To permit the conveyance of a parcel of land to create two parcels residential purposes, with one retained parcel. The existing dwelling on the retained parcel will remain and the accessory structure will be removed to facilitate for this land severance.

|                                | <b>Frontage</b>      | <b>Depth</b>         | <b>Area</b>                       |
|--------------------------------|----------------------|----------------------|-----------------------------------|
| <b>SEVERED LANDS (Part 1):</b> | 19.06m <sup>±</sup>  | 30.04 m <sup>±</sup> | 550.3 m <sup>2</sup>              |
| <b>SEVERED LANDS (Part 2):</b> | 11.5 m <sup>±</sup>  | 30.6 m <sup>±</sup>  | 347.1 m <sup>2</sup>              |
| <b>RETAINED LANDS:</b>         | 30.57 m <sup>±</sup> | 40.48 m <sup>±</sup> | 1,240 m <sup>2</sup> <sup>±</sup> |

Associated Planning Act File(s): B-24:52 & A-24:197

**This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.**

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

|               |   |
|---------------|---|
| <b>DATE:</b>  | <b>Thursday, March 27, 2025</b>   |
| <b>TIME:</b>  | <b>2:00 p.m.</b>  |
| <b>PLACE:</b> | <b>City Hall Council Chambers (71 Main St. W., Hamilton)</b>  |
|               | <b>To be streamed (viewing only) at</b><br><a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a> |

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

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Visit Committee of Adjustment staff at 5<sup>th</sup> floor City Hall, 71 Main St. W., Hamilton

## 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, written comments must be received no later than noon **March 25, 2025**

**Orally:** If you would like to speak to this item at the hearing you may do so via video link, calling in, or attending in person. Please see attached page for complete instructions, registration to participate virtually must be received no later than noon **March 26, 2025**

## FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding B-25:009, you must submit a written request to [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided the Notice of Decision of the proposed consent, you must make a written request to the Secretary-Treasurer of The City of Hamilton Committee of Adjustment by email at [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mail through City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5.



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. 3. 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.

If a person or public body that files an appeal of a decision of The City of Hamilton Committee of Adjustment in respect of the proposed consent does not make written submissions to The City of Hamilton Committee of Adjustment before it gives or refuses to give a provisional consent, the Ontario Land Tribunal may dismiss the appeal.

## **PARTICIPATION PROCEDURES**

### **Written Submissions**

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing advance of the meeting. Comments can be submitted by emailing [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon on the date listed on the Notice of Public Hearing.**

Comments are available the Tuesday prior to the Hearing and are available on our website: [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)

### **Oral Submissions**

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

#### **1. Virtual Oral Submissions**

Interested members of the public, agents, and owners **must register by noon on the day listed on the Notice of Public Hearing to** participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email [cofa@hamilton.ca](mailto:cofa@hamilton.ca). The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

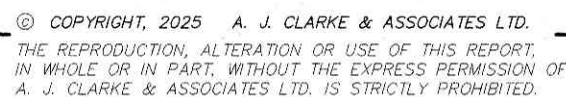
A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting one business day before the Hearing. Only those registered will be called upon to speak.

#### **2. In person Oral Submissions**

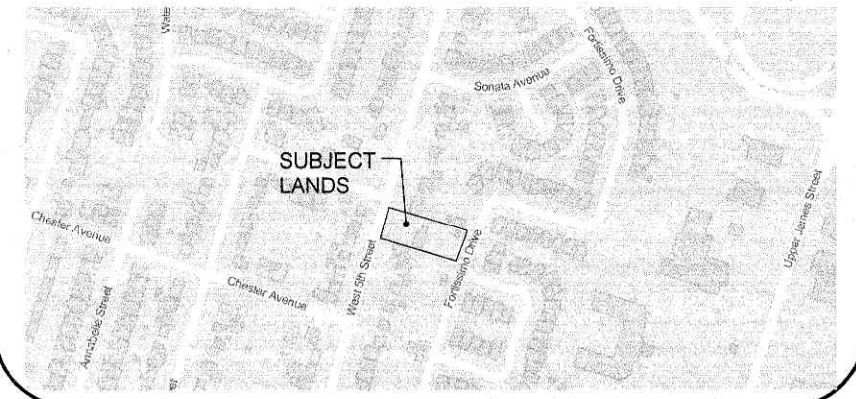
Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **no less than 10 minutes** before the time of the Public Hearing as noted on the Notice of Public Hearing.

We hope this is of assistance and if you need clarification or have any questions, please email [cofa@hamilton.ca](mailto:cofa@hamilton.ca).

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.



N. T. S.



SCALE 1:400



METRIC:

DISTANCES SHOWN ON THIS SKETCH ARE IN METRES AND  
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

NOTE:

THIS SKETCH IS BASED ON PLANS FILED IN OUR OFFICE AND THE  
LAND REGISTRY OFFICE- NOT ON AN ACTUAL FIELD SURVEY.

THIS SKETCH IS PREPARED TO ACCOMPANY AN APPLICATION  
TO THE LAND DIVISION COMMITTEE REQUESTING A GRANT  
OF SEVERANCE AND IS NOT INTENDED FOR REGISTRATION.

**CAUTION:**

THIS IS NOT A PLAN OF SUBDIVISION AND SHALL NOT BE  
USED FOR TRANSACTION OR MORTGAGE PURPOSES.

CONSENT SCHEDULE:

CONSENT 1

PARTS 1 & 6 - LANDS TO BE RETAINED  
PARTS 2 TO 5 INCLUSIVE - LANDS TO BE SEVERED

CONSENT 2

PARTS 2 & 4 - LANDS TO BE RETAINED  
PARTS 3 & 5 - LANDS TO BE SEVERED

|                               |                         |
|-------------------------------|-------------------------|
| PART 1                        | AREA = $\pm 1,240.0m^2$ |
| PARTS 2 & 4                   | AREA = $\pm 550.3m^2$   |
| PART 3 & 5                    | AREA = $\pm 347.1m^2$   |
| PART 6 (FUTURE ROAD WIDENING) | AREA = $\pm 158.3m^2$   |

JANUARY 28, 2025  
DATE



A. J. Clarke and Associates

**SURVEYORS • ENGINEERS • PLANNERS**  
25 MAIN STREET WEST, SUITE 300  
HAMILTON, ONTARIO, L8P 1H1  
TEL. 905-528-8761 FAX 905-528-2289  
email: [ajc@ajclark.com](mailto:ajc@ajclark.com)

|                    |                    |                        |                      |
|--------------------|--------------------|------------------------|----------------------|
| DRAWN BY:<br>JT/LH | CHECKED BY:<br>NPM | PROJECT No.<br>248136P | INDEX No.<br>E-18933 |
|--------------------|--------------------|------------------------|----------------------|

E-18933



METRIC DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

LOT 12  
Registered Plan 695

BLOCK 27 Registered Plan 62M-1066  
BLOCK 26  
Registered Plan 62M-1066  
PIN 16944-0348 (LT)

BLOCK 28  
Registered Plan 62M-1066

FORTISSIMO DRIVE  
(By Registered Plan 62M-1066)

BLOCK 35 PLAN 62M-1066  
(0.305 RESERVE)  
PIN 16944-0357 (LT)  
(Dedicated as a Public Highway  
by By-Law 12-142 registered as  
INSTRUMENT WE43084)

I REQUIRE THIS PLAN TO BE DEPOSITED  
UNDER THE LAND TITLES ACT  
DATE MARCH 11, 2016  
DAVID A. LAMONT O.L.S.  
SENIOR PROJECT MANAGER SURVEYS

PLAN 62R-20292  
RECEIVED AND DEPOSITED  
DATE Mar 14 11  
"A. S. J. J. J."  
REPRESENTATIVE FOR LAND REGISTRAR  
FOR THE LAND TITLES DIVISION OF  
ONTARIO (62)

SCHEDULE

| PART | LOT            | PLAN | PIN                   | AREA  |
|------|----------------|------|-----------------------|-------|
| 1    |                |      |                       | 130m² |
| 2    |                |      |                       | 41m²  |
| 3    |                |      |                       | 25m²  |
| 4    | PART OF LOT 10 | 427  | ALL OF 16944-0320(LT) | 9m²   |
| 5    |                |      |                       | 6m²   |
| 6    |                |      |                       | 5m²   |
| 7    |                |      |                       | 5m²   |
| 8    |                |      |                       | 9m²   |

PARTS 1 TO 4 COMPRISE ALL OF PIN 16944-0320(LT)  
PARTS 5 TO 8 COMPRISE PART OF PIN 16944-0321(LT)

PLAN OF SURVEY OF  
PART OF LOT 10  
REGISTERED PLAN 427  
IN THE  
CITY OF HAMILTON

SCALE = 1:100

DAVID A. LAMONT ONTARIO LAND SURVEYOR

BEARING AND COORDINATE NOTE

BEARINGS ARE GRID BEARINGS ARE DERIVED FROM  
GNSS OBSERVATIONS AND ARE REFERRED TO THE UTM  
MAD83 (Original) COORDINATE SYSTEM, ZONE 17, CENTRAL  
MERIDIAN 81° WEST LONGITUDE.  
DISTANCES SHOWN ON THIS PLAN ARE ADJUSTED GROUND  
DISTANCES AND CAN BE CONVERTED TO GRID DISTANCES  
BY MULTIPLYING BY AN AVERAGED COMBINED SCALE  
FACTOR OF 0.99967075.  
COORDINATES ON THIS PLAN ARE BASED ON GNSS OBSERVATION  
VERIFIED FROM THE FOLLOWING MONUMENTS:

| UTM COORDINATES (Metres)  |             |            |
|---|-------------|------------|
| Reference Points  | Northing    | Easting    |
| 025920030   | 4786697.885 | 591241.688 |
| 025920022   | 4784205.230 | 588982.679 |
| OBSERVED REFERENCE POINTS (ORP's)<br>as per Section 14(2) of O. Reg. 216/10                                       |             |            |
| ORP-A   | 4785475.681 | 590012.274 |
| ORP-B   | 4785396.389 | 590062.418 |
| THESE COORDINATES CANNOT, IN THEMSELVES, BE USED TO<br>RE-ESTABLISH THE CORNERS OR BOUNDARIES SHOWN ON THIS PLAN. |             |            |

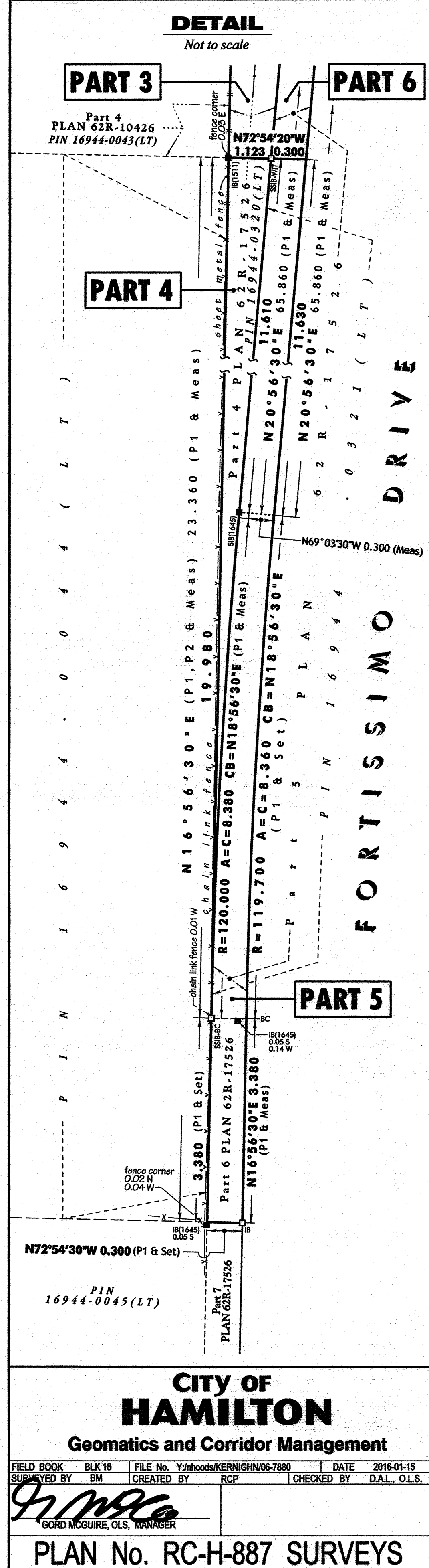
BEARING COMPARISONS:

FOR THE PURPOSE OF BEARING COMPARISONS, PREVIOUS SURVEYS  
HAVE BEEN ROTATED TO UTM BEARINGS BY THE ROTATIONS SHOWN BELOW:

| UTM BEARING COMPARISONS |                            |
|-------------------------|----------------------------|
| Plan                    | Rotation                   |
| P1                      | 1°04'00" COUNTER-CLOCKWISE |
| P2                      | 1°04'30" COUNTER-CLOCKWISE |

LEGEND

O.U. - DENOTES ORIGIN UNKNOWN  
Reg'd - DENOTES REGISTERED  
P1 - DENOTES PLAN 62R-17526  
P2 - DENOTES PLAN 62R-10426  
P3 - DENOTES PLAN 34036-F BY A.T. McLAREN dated September 17, 2013



SURVEYOR'S CERTIFICATE

I CERTIFY THAT:  
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE  
WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE  
LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.  
2. THE SURVEY WAS COMPLETED ON THE 3RD DAY OF MARCH 2016.

MARCH 8, 2016  
DATE

DAVID A. LAMONT O.L.S.





*A. J. Clarke and Associates Ltd.*

SURVEYORS • PLANNERS • ENGINEERS

City of Hamilton  
Committee of Adjustment  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON L8P 4Y5

January 31, 2025

Attn: Ms. Jamila Sheffield  
Secretary Treasurer, Committee of Adjustment (email: [Jamila.Sheffield@hamilton.ca](mailto:Jamila.Sheffield@hamilton.ca))

**Re: 879 West 5<sup>th</sup> Street, Hamilton: Severance Application Submission**

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Dear Ms. Sheffield:

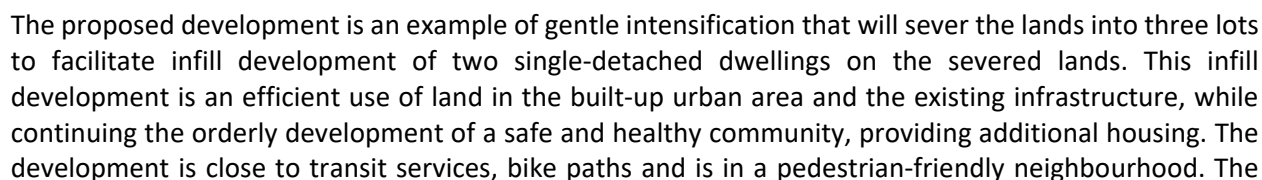
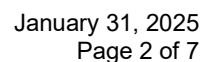
A.J. Clarke and Associates Ltd. has been retained by the owners of the subject lands, municipally known as 879 West 5<sup>th</sup> Street, for the purposes of submitting the enclosed Severance Application. Below is a summary of the materials submitted to your attention:

- One (1) digital copy of the executed Severance Application Form;
- One (1) digital copy of deposited Reference Plan 62R-20292;
- One (1) digital copy of the Sketch for Consent E-18933
- Committee of Adjustment Decisions for files B-24:52 and A-24:197

This analysis is in support of the submitted Severance Application for the subject lands. The development will sever the existing residential lands into three residential parcels; the existing dwelling will be retained on the proposed parcel fronting West 5<sup>th</sup> Street (PART 1 of E-18933), while two parcels will be severed in the rear, fronting onto Fortissimo Drive (PART 2 together with PART 4 and PART 3 together with PART 5). The severed lands will facilitate two single-detached dwellings utilizing compatible and appropriate lot dimensions and setback provisions.

The subject lands are located on the eastern side of West 5<sup>th</sup> Street between Rosehill Avenue to the north and Chester Avenue to the south. The lands are a through lot following the merging of lands fronting both West 5<sup>th</sup> Street and Fortissimo Drive. The subject lands are currently occupied by a single-detached dwelling fronting on to West 5<sup>th</sup> Street (to remain) and one accessory building to be demolished located in the rear yard.

The surrounding area is primarily low density residential in the form of single-detached dwellings. The neighbourhood has been incrementally developed in the past 15 years with the subdivisions along Fortissimo Drive and Connell Crescent built out from 2009-2014. Most recently, through City Files B-24:52 and A-24:197, the south adjacent lands of 885 West 5<sup>th</sup> were conditionally approved for severance along with associated minor variances. Further south along Fortissimo Drive lands were developed accommodating five new single-detached dwellings from 2018-2020. The proposed development would be following a similar lot pattern along Fortissimo matching the depth of adjacent parcel fabrics to the north with compatible lot widths and areas. The proposed dimensions would maintain the intent of Zoning By-law 05-200 R1 provisions, and above the provision requirements of C-H/S-1719.







proposed development will maintain the character of the streetscape with consistent height, form, lot size and land use. The existing building will be retained, reducing waste associated with redevelopment. Through pre-submission correspondence with City of Hamilton Planning Staff, it was discussed that the rear of the lands proposed to be severed, and fronting onto Fortissimo Drive are intended to be rezoned for low-density development in Zoning By-law 05-200, while the lands fronting on to West 5<sup>th</sup> Street would be potentially rezoned for medium-density development; this correspondence illustrates the co-ordination of planning activities and will assist in facilitating the direction of city zoning.

### **Provincial Planning Statement (PPS), 2024**

The proposed consent and development of the lands is consistent with the Provincial Planning Statement (PPS) through numerous applicable policies.

#### **Policy Section 2.1 pertains to “Planning for People and Homes”**

Policy 2.1.3 states that sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for at least the next 20 years.

Policy 2.1.4 states that planning authorities shall maintain the ability to accommodate residential growth for a minimum of 15 years through lands that are designated and available for residential development with sufficient servicing capacity. The lands are adjacent to sufficient servicing lines and existing transportation infrastructure and have been designated for residential development.

Policy 2.1.6 states planning authorities should support the achievement of complete communities by accommodating for an appropriate range and mix of land uses, housing options, transportation options, employment, public service facilities, recreation, and parks. The subject lands are in proximity to public service facilities, parks, and the nearby Upper James Street commercial corridor.

#### **Policy Section 2.2 pertains to Housing.**

Policy 2.2.1 reiterates the responsibility of planning authorities to provide for a range and mix of housing options and densities to meet projected housing needs. This includes permitting and facilitating all types of residential intensification, promoting densities for new housing that efficiently use resources, and prioritizing intensification in proximity to transit. As stated, the residential intensification proposed is an efficient use of existing servicing and infrastructure in proximity to transit.

The proposed development is consistent with the policies of the Provincial Planning Statement, 2024.

### **Urban Hamilton Official Plan, 2022**

The subject lands are designated ‘Neighbourhoods’ on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The ‘Neighbourhoods’ designation permits the use proposed by this application.

Policy B.2.4.1.3.c) states that *“30% of the residential intensification target is anticipated to occur within the Neighbourhoods as illustrated on Schedule E – Urban Structure. The City will review and update its Zoning By-law to facilitate the planned housing units to be developed within the Neighbourhoods through intensification.”* Policy E.2.2.6 also states that *“Intensification, redevelopment and compact form will be*



*encouraged generally throughout the built-up area in accordance with appropriate development standards.”*

Policies B.2.4.1.4 and B.2.4.2.2 of the Official Plan list numerous criteria with which residential intensification developments within the built-up area shall be evaluated. The proposed severance and future minor variances will facilitate two new lots for two additional single-detached dwellings having a density of  $\pm 22$  UPH; this is below the 60 UPH maximum for low-density residential areas. The lot pattern and frontage proposed are compatible within the existing neighbourhood and are above the zoning provisions of the C/S-1719 zone. Massing will be consistent with the neighbourhood and in keeping with low-density residential zoning provisions.

The parcels will be served by municipal water and wastewater, electric, telecommunications and transportation systems. The lands are in proximity to existing mass transit lines and cycling network. The lands are in proximity to multiple public community facilities and services. No impacts from shadowing, overlook, noise, lighting, traffic, or other nuisances are expected as the proposed lots and setbacks would comply with the existing low-density residential zoning fronting onto Fortissimo Drive. The proposal will retain the existing dwelling located on the proposed retained lot, reducing unnecessary waste, while facilitating a lot width and depth required for the City’s proposed Mid-Rise R3a zoning. These same qualities described above also show the development to be in conformity with Chapter F, Section 1.14.3.1 regarding lot creation in “Neighbourhoods” designated lands.

Upon review of the applicable policies, the proposed development conforms to and maintains the intent of the Urban Hamilton Official Plan.

#### **City of Hamilton Zoning By-law 05-200/ 6593**





As per the figure above, and illustrated on sketch E-18933, the subject lands (outlined in blue) are affected by multiple zones (C/S-1822, AA, and C-H/S-1719) within the Former City of Hamilton Zoning By-law 6593. Except for the existing rear yard, the subject lands have already been zoned for low-density residential development.

The existing dwelling on the retained lot (PART 1) is zoned “C/S-1822” (Urban Protected Residential, etc) District in the Former City of Hamilton Zoning By-law 6593. This zone permits the existing single-detached dwelling use that will be retained while severing the existing rear yard into two additional lots.

A review of the applicable zoning provisions is provided below against the proposed development:

| C/S-1822 Regulations for Single Detached Dwellings | Requirement            | Part 1 (lands to be retained)           |
|--|------------------------|---|
| Min Lot Frontage                                   | 12 metres              | ±30.57 metres                           |
| Min Lot Area                                       | 360 m <sup>2</sup>     | ±545.98m <sup>2</sup>                   |
| Min Front Yard                                     | 6 metres               | ±23m following road widening            |
| Min Side Yard                                      | 1.2 metres             | ±0.94m and ±8.12m (existing conditions) |
| Min Rear Yard                                      | 7.5 metres             | <b>±6.5m – requires future variance</b> |
| Max Building Height                                | 11 metres/ 2.5 storeys | ±8 metres                               |

A strip of the subject lands, shown as Part 1 on submitted plan 62R-20292, has been zoned C-H/S-1719 and C-H/S-1822. This site-specific zoning (through By-law 16-076) was created through a remnant parcel from the subdivision development along Fortissimo Drive and Connell Crescent. This zoning would require the same provisions of a “C” District but permits minimum lot widths of 11 metres and minimum lot areas of 335m<sup>2</sup>. The proposed lot fabric for the severed parcels exceeds these requirements.

Further, this same portion described above and adjacent to Fortissimo Drive, is also subject to a Holding Provision which states:

"That the 'H' symbol shall only be removed conditional upon:

- (i) That the owner/applicant pay any outstanding cost recoveries associated with the road and infrastructure work including private services connections.
- (ii) That the owner/applicant ensure that each lot has a watermain connection, sanitary sewer connection, and storm sewer connection.
- (iii) Until such time as the lands have been merged in title with the abutting lands to the rear and Consent Applications have been conditionally approved to facilitate lot creation in keeping with the Regulations of the "C/S-1719" Zone provisions.

This holding provision was placed to ensure that development could only proceed once cost recoveries were paid, and that the lands were assembled and planned for appropriate servicing through a consent application. This strip of land was acquired by the owner and is held in identical ownership as that of 879 West 5<sup>th</sup> St and both are contained in the same assessment parcel. Servicing and grading plans would be placed as a condition of severance through a Consent Agreement and the future minor variance application would ensure development is in keeping with the C/S-1719 provisions.

The outdated “AA” (Agricultural) District zoning occupies the rear yard, despite the residential designation and surrounding residential development. This area (±779m<sup>2</sup> on the subject lands) is surrounded by low-density residential zones and the intent and use as an agricultural operation has been non-existent for





decades. The existing conditions are already far below the requirements for “AA” zones. The existing total lot area ( $\pm 2,295\text{m}^2$ ) is approximately 19% of the required  $12,000\text{m}^2$  lot area, and the lot width along West 5<sup>th</sup> is  $\pm 50\%$  of the required 60 metres. Lastly, the use of single-detached dwellings is already permitted on lands zoned “AA”. A review of the applicable “AA” zone provisions is provided below against the proposed development:

| AA Regulations      | Requirement            | PARTS 2 and 4 (proposed)                | PARTS 3 and 5 (proposed)                |
|---------------------|------------------------|---|---|
| Min Lot Width       | 60 metres              | <b><math>\pm 19.06</math> metres</b>    | <b><math>\pm 11.5</math> metres</b>     |
| Min Lot Area        | $12,000\text{m}^2$     | <b><math>\pm 550.3\text{m}^2</math></b> | <b><math>\pm 347.1\text{m}^2</math></b> |
| Min Front Yard      | 12 metres              | <b>6 metres</b>                         | <b>6 metres</b>                         |
| Min Side Yard       | 4.5 metres             | <b>1.2 metres</b>                       | <b>1.2 metres</b>                       |
| Min Rear Yard       | 10.5 metres            | <b>7.5 metres</b>                       | <b>7.5 metres</b>                       |
| Max Building Height | 11 metres/ 2.5 storeys | TBD                                     | TBD                                     |

**Former Hamilton Zoning By-law 6593 Section 3(9) “Lots Situated in Two or More Zones”:**

*“Notwithstanding any provision of this By-Law, a building or structure may be erected, altered, extended or enlarged within one or more districts applicable to a lot or tract of land where, (83-193) (92-170)*

- (a) the use is permitted in each of the districts;*
- (b) and the lot or tract of land complies with the least stringent width and area requirements of the district containing the requirements; and*
- (c) except as provided in clause (b), the building or structure complies with all other requirements of each of the districts applicable to the lot or tract of land.”*

The proposed lots located along Fortissimo Drive will cross three zones: “C/S-1822”, “AA” and “C-H/S-1719” of Hamilton Zoning By-law 6593.

- (a) The proposed use of a single-detached dwelling is permitted in all zones.
- (b) The proposed lot sizes and widths comply with the least stringent width and area requirements of the “C-H/S-1719” Zone being 11 metre widths and  $335\text{m}^2$  lot areas; proposed are lot widths exceeding 11 metres and  $335\text{m}^2$ .
- (c) Single-detached dwellings would be permitted on the lot sizes proposed. Minor variances pertaining to building setbacks will be requested to meet By-law Section 3(9)(c) to fit an appropriate building envelope on the created lots in keeping with the C-H/S-1719 zone. A minor variance application will be submitted following conditional approval of the subject severance application and execution of OLS-approved survey of lands.

**Minor Variances**

As conditions of severance, variances will be required for each lot to facilitate the proposed development. Part 1 (Retained) will require a variance to permit a reduced rear yard of approximately  $\pm 6.5$  metres. Parts 2 and 4 (Severed), as well as Parts 3 and 5 (Severed) will require variances to the existing “AA” Zone for all setbacks, lot width, and lot area. Justification for all future minor variances will be presented at the time of submission of the application. These variances will be the same as those supported by staff and approved by the Committee of Adjustment in October 2024 (files **A-24:197** and **B-24:52**) for the neighbouring property of 885 West 5<sup>th</sup> Street.

In accordance with the above criteria, the subject land is appropriate for the redevelopment, has sufficient regard for the matters listed under Section 2 of the *Planning Act*, is consistent with the policies of the



Provincial Planning Statement, 2024, conforms to the policies of the Urban Hamilton Official Plan, maintains the intent and direction of the Zoning By-law, represents good planning, and should be approved.

I trust that you will find the enclosed satisfactory for your purposes. Please confirm receipt of this submission and we look forward to being scheduled for the next available hearing date. If you have any questions or require additional information, please do not hesitate to contact our office.

Prepared by:

James Thomas, CPT, HBA  
Planner

**A. J. Clarke and Associates Ltd.**

Reviewed by:

Franz Kloibhofer, MCIP, RPP, BES (Hons.)  
Principal, Planning Manager

**A.J. Clarke and Associates Ltd.**

**APPLICATION FOR CONSENT TO SEVER LAND  
and VALIDATION OF TITLE  
UNDER SECTION 53 & 57 OF THE *PLANNING ACT***

Please see additional information regarding how to submit an application, requirements for the required sketch and general information in the Submission Requirements and Information.

**1. APPLICANT INFORMATION**

|                             | NAME  | MAILING ADDRESS |                                     |
|-----------------------------|---|-----------------|-------------------------------------|
| <b>Purchaser*</b>           |   |                 | <b>Phone:</b><br><br><b>E-mail:</b> |
| <b>Registered Owners(s)</b> | Richard Lewis Smith<br>Valentina Marita Benacquis                     |                 |                                     |
| <b>Applicant(s)**</b>       | Muraca Group<br>c/o Peter Muraca                                      |                 |                                     |
| <b>Agent or Solicitor</b>   | A.J. Clarke & Associates Lt<br>c/o Franz Kloibhofer &<br>James Thomas |                 |                                     |

\*Purchaser must provide a copy of the portion of the agreement of purchase and sale that authorizes the purchaser to make the application in respect of the land that is the subject of the application.

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

1.2 Primary contact ☐ Purchaser ☐ Owner  
☐ Applicant ☒ Agent/Solicitor

1.3 Sign should be sent to ☐ Purchaser ☐ Owner  
☐ Applicant ☒ Agent/Solicitor

1.4 Request for digital copy of sign ☐ Yes\* ☒ No

If YES, provide email address where sign is to be sent

1.5 All correspondence may be sent by email ☒ Yes\* ☐ No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.



1.6 Payment type

☐ In person

☒ Credit over phone\*

☐ Cheque

\*Must provide number above

2. LOCATION OF SUBJECT LAND

PT LT 10, PL 427 , AS IN HL170606 ; HAMILTON

2.1 Complete the applicable sections:

|                           |  |            |                          |
|---------------------------|--|------------|--------------------------|
| Municipal Address         | 879 West 5th Street & PART LOT 10 PLAN 427 DESIGNATED PART 1 PLAN 62R20292 |            |                          |
| Assessment Roll Number    |  |            |                          |
| Former Municipality       | Hamilton   |            |                          |
| Lot                       | 15   | Concession | 7                        |
| Registered Plan Number    | PL 427   | Lot(s)     | PT LT 10, AS IN HL170606 |
| Reference Plan Number (s) | 62R20292   | Part(s)    | 1                        |

2.2 Are there any easements or restrictive covenants affecting the subject land?

☐ Yes ☒ No

If YES, describe the easement or covenant and its effect:

3 PURPOSE OF THE APPLICATION

3.1 Type and purpose of proposed transaction: (check appropriate box)

☐ creation of a new lot(s)

☒ concurrent new lot(s)

☐ addition to a lot

☐ a lease

☐ an easement

☐ a correction of title

☐ validation of title (must also complete section 8)

☐ a charge

☐ cancellation (must also complete section 9)

☐ creation of a new non-farm parcel (must also complete section 10)

( i.e. a lot containing a surplus farm dwelling  
resulting from a farm consolidation)

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

TBD

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

3.4 Certificate Request for Retained Lands: ☐ Yes\*

\* If yes, a statement from an Ontario solicitor in good standing that there is no land abutting the subject land that is owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Act. (O. Reg. 786/21)

## 4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

### 4.1 Description of subject land:

All dimensions to be provided in metric (m, m<sup>2</sup> or ha), attach additional sheets as necessary.

|                                     | Retained<br>(remainder)  | Parcel 1                 | Parcel 2                 | Parcel 3* | Parcel 4* |
|-------------------------------------|--------------------------|--------------------------|--------------------------|-----------|-----------|
| Identified on Sketch as:            | PART 1                   | PARTS 2 and 4            | PARTS 3 and 5            |           |           |
| Type of Transfer                    | N/A                      |                          |                          |           |           |
| Frontage                            | ±30.57                   | ±19.06                   | ±11.5                    |           |           |
| Depth                               | max ±40.48               | max ±30.04               | max ±30.6                |           |           |
| Area                                | ±1,240m <sup>2</sup>     | ±550.3m <sup>2</sup>     | ±347.1m <sup>2</sup>     |           |           |
| Existing Use                        | Single detached dwelling | Single detached dwelling | Single detached dwelling |           |           |
| Proposed Use                        | N/A - no changes         | Single detached dwelling | Single detached dwelling |           |           |
| Existing Buildings/ Structures      | single-detached dwelling | None                     | shed                     |           |           |
| Proposed Buildings/ Structures      | existing                 | Single detached dwelling | Single detached dwelling |           |           |
| Buildings/ Structures to be Removed | None                     | none                     | shed                     |           |           |

\* Additional fees apply.

### 4.2 Subject Land Servicing

#### a) Type of access: (check appropriate box)

- ☐ provincial highway  
☐ municipal road, seasonally maintained  
☒ municipal road, maintained all year

- ☐ right of way  
☐ other public road

#### b) Type of water supply proposed: (check appropriate box)

- ☒ publicly owned and operated piped water system  
☐ privately owned and operated individual well

- ☐ lake or other water body  
☐ other means (specify)

#### c) Type of sewage disposal proposed: (check appropriate box)

- ☒ publicly owned and operated sanitary sewage system  
☐ privately owned and operated individual septic system  
☐ other means (specify)

### 4.3 Other Services: (check if the service is available)

- ☒ electricity
 ☒ telephone
 ☒ school bussing
 ☒ garbage collection

## 5 CURRENT LAND USE

### 5.1 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): \_\_\_\_\_

Rural Settlement Area: \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable) Neighbourhoods

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

Please see attached cover letter for further project details.

5.2 Is the subject land currently the subject of a proposed official plan amendment that has been submitted for approval?

☐ Yes ☒ No ☐ Unknown

If YES, and known, provide the appropriate file number and status of the application.

5.3 What is the existing zoning of the subject land? Multiple: C-/S-1822; AA; C-H/S-1719

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

5.4 Is the subject land the subject of any other application for a Minister's zoning order, zoning by-law amendment, minor variance, consent or approval of a plan of subdivision?

☐ Yes ☒ No ☐ Unknown

If YES, and known, provide the appropriate file number and status of the application.

5.5 Are any of the following uses or features on the subject land or within 500 metres of the subject land, unless otherwise specified. Please check the appropriate boxes, if any apply.

| Use or Feature  | On the Subject Land      | Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance) |
|---|--------------------------|---|
| <b>An agricultural operation, including livestock facility or stockyard</b> * Submit Minimum Distance Separation Formulae (MDS) if applicable | <input type="checkbox"/> |   |
| <b>A land fill</b>  | <input type="checkbox"/> |   |
| <b>A sewage treatment plant or waste stabilization plant</b>  | <input type="checkbox"/> |   |
| <b>A provincially significant wetland</b>   | <input type="checkbox"/> |   |
| <b>A provincially significant wetland within 120 metres</b>   | <input type="checkbox"/> |   |
| <b>A flood plain</b>  | <input type="checkbox"/> |   |
| <b>An industrial or commercial use, and specify the use(s)</b>  | <input type="checkbox"/> | located ±120m from Upper James Corridor properties - multi commercial                         |
| <b>An active railway line</b>   | <input type="checkbox"/> |   |
| <b>A municipal or federal airport</b>   | <input type="checkbox"/> |   |



## 6 HISTORY OF THE SUBJECT LAND

6.1 Has the subject land ever been the subject of an application for approval of a plan of subdivision or a consent under sections 51 or 53 of the *Planning Act*?

☐ Yes ☒ No ☐ Unknown

If YES, and known, provide the appropriate application file number and the decision made on the application.

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

6.3 Has any land been severed or subdivided from the parcel originally acquired by the owner of the subject land?

☐ Yes ☒ No

If YES, and if known, provide for each parcel severed, the date of transfer, the name of the transferee and the land use.

6.4 How long has the applicant owned the subject land?

September, 2023

6.5 Does the applicant own any other land in the City? ☐ Yes ☒ No

If YES, describe the lands below or attach a separate page.

N/A applicant is acting on behalf of owners. Only lands owned by owner.

## 7 PROVINCIAL POLICY

7.1 Is this application consistent with the Policy Statements issued under Section 3 of the *Planning Act*?

☒ Yes ☐ No (Provide explanation)

Consistent with Policy Statements and Provincial Plans

7.2 Is this application consistent with the Provincial Policy Statement (PPS)?

☒ Yes ☐ No (Provide explanation)

Wise use of available resources and infrastructure to facilitate additional housing stock through gentle intensification and infill development within an established neighbourhood.

7.3 ~~Does this application conform to the Growth Plan for the Greater Golden Horseshoe?~~

☐ Yes ☐ No (Provide explanation)

NOT APPLICABLE

7.4 Are the subject lands subject to the Niagara Escarpment Plan?

☐ Yes ☒ No (Provide explanation)

7.5 Are the subject lands subject to the Parkway Belt West Plan?

☐ Yes

☒ No

(Provide explanation)

7.6 Are the subject lands subject to the Greenbelt Plan?

☐ Yes

☒ No

(Provide explanation)

7.7 Are the subject lands within an area of land designated under any other provincial plan or plans?

☐ Yes

☒ No

(Provide explanation)

## 8 ADDITIONAL INFORMATION - VALIDATION

8.1 Did the previous owner retain any interest in the subject land?

☐ Yes

☐ No

(Provide explanation)

8.2 Does the current owner have any interest in any abutting land?

☐ Yes

☐ No

(Provide explanation and details on plan)

8.3 Why do you consider your title may require validation? (attach additional sheets as necessary)

## 9 ADDITIONAL INFORMATION - CANCELLATION

9.1 Did the previous owner retain any interest in the subject land?

☐ Yes

☐ No

(Provide explanation)

9.2 Does the current owner have any interest in any abutting land?

☐ Yes

☐ No

(Provide explanation and details on plan)

9.3 Why do you require cancellation of a previous consent? (attach additional sheets as necessary)

## 10 ADDITIONAL INFORMATION - FARM CONSOLIDATION

### 10.1 Purpose of the Application (Farm Consolidation)

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate if the consolidation is for:

- ☐ Surplus Farm Dwelling Severance from an Abutting Farm Consolidation
- ☐ Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation

### 10.2 Location of farm consolidation property:

|                           |  |            |  |
|---------------------------|--|------------|--|
| Municipal Address         |  |            |  |
| Assessment Roll Number    |  |            |  |
| Former Municipality       |  |            |  |
| Lot                       |  | Concession |  |
| Registered Plan Number    |  | Lot(s)     |  |
| Reference Plan Number (s) |  | Part(s)    |  |

### 10.3 Rural Hamilton Official Plan Designation(s)

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate the existing land use designation of the abutting or non-abutting farm consolidation property.

### 10.4 Description of farm consolidation property:

|               |                              |
|---------------|------------------------------|
| Frontage (m): | Area (m <sup>2</sup> or ha): |
|---------------|------------------------------|

Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

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

|               |                              |
|---------------|------------------------------|
| Frontage (m): | Area (m <sup>2</sup> or ha): |
|---------------|------------------------------|

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

### 10.7 Description of surplus dwelling lands proposed to be severed:

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

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

#### a) Date of construction:

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

#### b) Condition:

- ☐ Habitable ☐ Non-Habitable

## 11 COMPLETE APPLICATION REQUIREMENTS

### 11.1 All Applications

- ☒ Application Fee
- ☒ Site Sketch
- ☒ Complete Application Form
- ☒ Signatures Sheet

### 11.2 Validation of Title

- ☐ All information documents in Section 11.1
- ☐ Detailed history of why a Validation of Title is required
- ☐ All supporting materials indicating the contravention of the Planning Act, including PIN documents and other items deemed necessary.

### 11.3 Cancellation

- ☐ All information documents in Section 11.1
- ☐ Detailed history of when the previous consent took place.
- ☐ All supporting materials indicating the cancellation subject lands and any neighbouring lands owned in the same name, including PIN documents and other items deemed necessary.

### 11.4 Other Information Deemed Necessary

- ☒ Cover Letter/Planning Justification Report
- ☐ Minimum Distance Separation Formulae (data sheet available upon request)
- ☐ Hydrogeological Assessment
- ☐ Septic Assessment
- ☐ Archeological Assessment
- ☐ Noise Study
- ☐ Parking Study

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